



**VIA Electronic Filing**

July 22, 2022

Florida Public Service Commission  
Adam Teitzman, Commission Clerk  
Office of the Commission Clerk  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

***Re: City of Bartow, Florida – Original and Revised Tariff Sheets***

Dear Mr. Teitzman:

This letter is submitted on behalf of the City of Bartow, Florida pursuant to Rules 25-9.05 through 25-9.071 of the *Florida Administrative Code*.

Electronically filed are the city's following tariff sheets in legislative and final filing formats except as noted:

- a. Eighth Revised Sheet No. 2.0 – *Table of Contents, and,*
- b. Original Sheets No. 22.0 - 22.11 – *Commercial Electric Service Agreement.*

Please note that the *Commercial Electric Service Agreement* is a contract between the City of Bartow and Mineral Services, LLC and is a copy of the final executed agreement.

Please contact our office if there are any questions.

Very truly yours,

/s/

Jody Lamar Finklea  
General Counsel and Chief Legal Officer

TABLE OF CONTENTS

|   | <u>Sheet<br/>Number</u> |
|---|-------------------------|
| Description of Territory.....                     | 3.0                     |
| List of Communities Served.....                   | 4.0                     |
| Rate Schedules.....                               | 5.0 – 9.0               |
| General Services Non-Demand.....                  | 5.0                     |
| General Service Demand Secondary.....             | 6.0                     |
| General Service Demand Primary.....               | 6.1                     |
| General Service Demand Large Power.....           | 6.2                     |
| General Service Demand Low Load Factor.....       | 6.3                     |
| Residential Service.....                          | 7.0                     |
| Miscellaneous.....                                | 8.0 – 8.1               |
| Power Cost Adjustment.....                        | 9.0                     |
| Public Service Tax and Surcharge.....             | 9.1                     |
| Florida Gross Receipts Tax.....                   | 9.3                     |
| Florida Sales Tax.....                            | 9.5                     |
| Economic Development Rider.....                   | 9.6                     |
| Standard Forms/Blank Bill Form.....               | 10.0 – 12.0             |
| Customer’s Deposit Receipt .....                  | 10.0                    |
| Customer’s Delinquent Notice .....                | 11.0                    |
| Blank Bill Form.....                              | 12.0                    |
| <u>Qualifying Transmission Tariff.....</u>        | <u>13.0 – 21.0</u>      |
| <u>Commercial Electric Service Agreement.....</u> | <u>22.0 – 22.11</u>     |

TABLE OF CONTENTS

|   | <u>Sheet<br/>Number</u> |
|---|-------------------------|
| Description of Territory.....               | 3.0                     |
| List of Communities Served.....             | 4.0                     |
| Rate Schedules.....                         | 5.0 – 9.0               |
| General Services Non-Demand.....            | 5.0                     |
| General Service Demand Secondary.....       | 6.0                     |
| General Service Demand Primary.....         | 6.1                     |
| General Service Demand Large Power.....     | 6.2                     |
| General Service Demand Low Load Factor..... | 6.3                     |
| Residential Service.....                    | 7.0                     |
| Miscellaneous.....                          | 8.0 – 8.1               |
| Power Cost Adjustment.....                  | 9.0                     |
| Public Service Tax and Surcharge.....       | 9.1                     |
| Florida Gross Receipts Tax.....             | 9.3                     |
| Florida Sales Tax.....                      | 9.5                     |
| Economic Development Rider.....             | 9.6                     |
| Standard Forms/Blank Bill Form.....         | 10.0 – 12.0             |
| Customer’s Deposit Receipt .....            | 10.0                    |
| Customer’s Delinquent Notice .....          | 11.0                    |
| Blank Bill Form.....                        | 12.0                    |
| Qualifying Transmission Tariff.....         | 13.0 – 21.0             |
| Commercial Electric Service Agreement.....  | 22.0 – 22.11            |

**CITY OF BARTOW**  
**COMMERCIAL ELECTRIC SERVICE AGREEMENT**

THIS AGREEMENT is made and entered into this day of 21st day of October, 2020 ("Effective Date"), by and between the CITY OF BARTOW (hereafter "CITY") whose address is 450 North Wilson Avenue, Bartow, Florida 33830, and MINERAL DEVELOPMENT, LLC (hereafter "CUSTOMER") whose address is 4000 SR 60 East, Mulberry, Florida 33860.

**RECITALS**

WHEREAS the CUSTOMER plans to construct and place into service a phosphate recovery facility located within the CITY'S electric utility service area at 4001 Noralyn Mine Road, Bartow, Florida.

WHEREAS the CUSTOMER has requested electric service from the CITY.

WHEREAS the CUSTOMER plans to place the phosphate recovery facility into service in November 2022.

WHEREAS the CITY currently does not have the electrical infrastructure necessary to provide the required electric service requested by the CUSTOMER.

WHEREAS the CITY plans to expand its electric distribution system in order to provide electric service to the CUSTOMER.

WHEREAS in return for the CUSTOMER agreeing to become a long-term commercial electric CUSTOMER, CITY is willing to provide certain favorable considerations as set forth below.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, the CUSTOMER and CITY hereby covenant and agree as follows:

**SECTION 1. RECITALS.** The above Recitals are true and correct, and form a material part of this Agreement.

(Continued on Sheet No. 22.1)

Issued by: Bradley L. Hiers  
Director, Bartow Electric Utility

Effective: August 15, 2022

**SECTION 2. PROVISION OF SERVICE.**

2.1 As the exclusive provider of electric power, **CITY** shall sell and deliver to **CUSTOMER**, and **CUSTOMER** shall purchase and receive from **CITY**, **CUSTOMER's** full requirements for electric service for the **CUSTOMER's** phosphate recovery facility. The **CITY** will use reasonable diligence at all times to provide continuous service at the agreed nominal voltage, and shall not be liable to the **CUSTOMER** for complete or partial failure or interruption of service, or for fluctuations in voltage, resulting from causes beyond its control or through the ordinary negligence of its employees, servants or agents.

2.2. The **CITY** shall not be liable for any act or omission caused directly or indirectly by strikes, labor troubles, accident, litigation, shutdowns for repairs or adjustments, interference by Federal, State or Municipal governments, acts of God or other causes beyond its control.

2.3. Electric service received from the **CITY** shall be for the **CUSTOMER's** own use solely for the purpose of operating the phosphate recovery facility and shall not be resold or in any other manner used by anyone other than **CUSTOMER**.

2.4. Increased service requirements shall be supplied at all times by the **CITY** through the existing, or enlarged, service connection and such metering equipment as will properly measure the amount of energy and its maximum demand, provided that the necessary enlargement of the facilities in service does not require changes in point of delivery. The **CUSTOMER** shall give reasonable advance notice to the **City** of any changes which affect the connected load under contract to the end that the **City** will have ample time to provide adequate service facilities.

2.5 Electric service under this Service Agreement may be interrupted at any time by the **City** subject to the terms of the then current power supply contract. The total duration of interruption shall not exceed 36 hours total per year, nor shall the duration of any individual interruption exceed 6 hours. The terms of the interruption criteria of the current power supplier are included in Appendix A.

**SECTION 3. TERM OF AGREEMENT.**

(Continued on Sheet No. 22.2)

3.1. This Service Agreement, hereby terminating on its Effective Date any and all prior agreements, whether written or verbal, formal or informal, between the parties, shall become effective as of the date specified herein, and shall remain in effect for an initial term of ten (10) Contract Years, and shall renew for a five (5) year term after the tenth Contract Year, and shall renew for additional five (5) year terms thereafter in the same manner, unless terminated by written notice of such intention from either party to the other at least one (1) year prior to the expiration date of the initial term or any subsequent term.

3.2. Contract Year shall be a twelve-month period beginning upon the issuance of a Certificate of Occupancy for the phosphate recovery facility and ending on the anniversary date thereof.

3.3. If not otherwise terminated under the terms of Section 5.1 below, either party shall have the right to terminate this Agreement, following sixty (60) days written notice to the other Party, upon the happening of any of the following events:

(a) Any final court decision, Internal Revenue Service ruling, or any change in the applicable statutes or regulations, which in the reasonable opinion of CITY's legal counsel, results in the continued existence of this Agreement having a material adverse effect on CITY's ability to issue tax exempt bonds. For these purposes, "tax exempt bonds" shall mean bonds, the interest of which is excluded from gross income for Federal income tax purposes.

**SECTION 4. RIGHT OF WAY.** The CUSTOMER shall grant or cause to be granted to the CITY, and without cost to the CITY, all rights of way, easements, licenses, permits and privileges, upon, over, under, along, across and through the land of (whether owned by or leased by) the CUSTOMER, which, in the opinion of the CITY, are necessary for the rendering of electricity service to the CUSTOMER.

**SECTION 5. SCHEDULE.**

5.1. The cost to provide electric service to the CUSTOMER is dependent upon the results of System Impact Studies and Facilities Studies which may be required by the transmission service provider, Duke Energy Florida. If required, the results of these studies may not be known for 120 days or more. The CUSTOMER may terminate this Agreement if the results of the System Impact Study and Facilities Study are such that

(Continued on Sheet No. 22.3)

the cost to modify the transmission system renders the proposed phosphate recovery facility uneconomical in the sole opinion of the **CUSTOMER**.

5.2. The **CITY** will commence design and construction of the distribution facilities necessary to provide electric service upon the acceptance of results of the System Impact Study and Facilities Study by the **CUSTOMER**. The **CITY** anticipates completion of the construction of distribution facilities 14 months after commencement of construction.

**SECTION 6. ELECTRIC RATES.** The **CUSTOMER** will be billed monthly during the term of this Agreement from the date of commencement of electric service. The **CUSTOMER** shall be charged for electric service as follows. The following Purchased Power Demand Rate and Purchased Power Energy Rate reflect estimates of natural gas prices in 2022 and purchased power cost estimates as of 1 September 2020.

|  |                  |
|--|------------------|
| Monthly <b>CUSTOMER</b> Service Charge, \$/month                       | \$400.00         |
| Delivery System Energy Rate Contract Year 1, each kWh                  | \$0.01000 note 1 |
| Purchased Power Demand Rate, each kW                                   | \$6.578 note 2   |
| Purchased Power Energy Rate, each kWh                                  | \$0.02738 note 2 |
| Minimum Charge. <b>CUSTOMER</b> Service Charge plus all Demand Charges |                  |

**Note 1.** The Delivery System Energy Rate shall be \$0.01170 for Contract years 2, 3 and 4. Thereafter, the Delivery System Energy Rate shall be increased periodically whenever the **CITY** conducts electric system rate studies and increases electric rates throughout the electric system. The percentage increase in the Delivery System Energy Rate shall not exceed the average percentage rate increase adopted for the **CITY**'s entire electric system.

**Note 2.** The **CITY** shall calculate the incremental cost of bulk power supply each month necessary to supply the MDL recovery facility. The calculation shall include all incremental demand and energy charges from the then current suppliers of bulk power supply plus the incremental demand and energy charges from the transmission service provider (currently Duke Energy Florida). All charges shall be adjusted for losses to the **CUSTOMER**'s delivery point. The Purchase

(Continued to Sheet No. 22.4)

Power Demand Rate shall be based on the greater of (1) 12,000 kW or (2) the maximum 60-minute demand during the billing month.

Charges for electric service will be subject to the Florida Gross Receipts Tax pursuant to the provisions of Florida Statute Chapter 203, Public Service Tax pursuant to Florida Statute Chapter 166.231 and Florida and Polk County sales taxes. The taxes shall be determined in a manner consistent with application of *these taxes on other electric customers in the CITY.*

**SECTION 7. Capital Cost Recovery.** In addition to the above rates and charges for electric service, the Customer shall pay to the CITY each month, as reimbursement for all capital costs, a Capital Cost Recovery Charge, currently estimated at \$80,000 per month, based upon the current estimated budget of all incremental capital costs required to provide service of \$2.4 million with recovery amortized over 34 months, at an interest rate of five percent. The Capital Cost Recovery Charge shall remain constant and shall be in effect until the CITY has recovered all incremental capital costs expended by the CITY to provide electric service to the CUSTOMER including interest. Payment of the monthly Capital Cost Recovery Charge shall commence with the first billing statement rendered following the issuance of the Certificate of Occupancy for the phosphate recovery facility.

Incremental capital cost shall include the following:

1. Cost to modify the SW Substation to place in service a 69kV to 25 kV substation transformer with 25 kV feeder breaker and associated instrumentation, metering and control systems.
2. Cost to construct a 25 kV distribution line from the SW Substation to the CUSTOMER'S site to include all costs for right-of-way.
3. Costs of any system impact studies and facility studies that may be required by the transmission service provider.
4. Any costs incurred as a result of modifications to the transmission system required by the System Impact Study and Facilities Study.
5. Engineering, consulting and professional services costs associated with providing electric service to the CUSTOMER.

(Continued to Sheet No. 22.5)

Issued by: Bradley L. Hiers  
Director, Bartow Electric Utility

Effective: August 15, 2022



The **CITY** shall maintain accurate accounts of the above costs and upon request by the **CUSTOMER**, shall provide to the **CUSTOMER** the current budgeted amount and expenditures to date of the incremental costs to provide service to the **CUSTOMER**. Upon completion of all capital improvements detailed above, **CITY** shall calculate a final Capital Cost Recovery Charge and the monthly billed charge will be based on that final calculation.

The Capital Cost Recovery Charge will be discontinued after the **CITY** has recovered all incremental capital costs that are incurred in providing electric service to the **CUSTOMER**.

**SECTION 8. PAYMENT OF BILLS.** All bills for electric service and Capital Cost Recovery are due and payable within 21 days after the date of meter reading. Failure to pay such bills within seven (7) days after they become due and payable will subject the consumer to discontinuance of service. Following any discontinuance of service, resumption of service shall only occur after compliance with the requirements of the applicable Sections under Chapter 78 of the Code of Ordinances of the City of Bartow. Failure of the consumer to receive a bill shall not avoid discontinuance of service, although the **CITY** manager, or his designee, may waive discontinuance of service if he finds that extenuating circumstances caused the delinquency. Bills shall be subject to a delinquency charge of 1.5 percent if not paid by the due date.

**SECTION 9. ACCESS TO PREMISES.** The **CITY** shall, at all reasonable hours, have free access to the **CUSTOMER'S** premises for any purpose connected with the delivery of electric power under this Agreement or the exercise of any rights secured to, or the performance of any obligations imposed on it by this Agreement. The **CITY** shall use its best efforts not to disrupt the operations of the **CUSTOMER'S** business while using such access rights.

**SECTION 10. DEFAULT.**

10.1 **CITY** Defaults and **CUSTOMER** Remedies.

**CITY** Default. The following events shall be defaults with respect to the **CITY** (each, a "**CITY** Default"):

(Continued on Sheet No. 22.6)

Issued by: Bradley L. Hiers  
Director, Bartow Electric Utility

Effective: August 15, 2022

- (a). A Bankruptcy Event shall have occurred with respect to **CITY**;
- (b). **CITY** shall be in default in the performance of this Agreement;
- (c). **CITY** fails to pay **CUSTOMER** any undisputed amount owed to **CUSTOMER** under the Agreement within thirty (30) days from receipt of notice from **CUSTOMER**; or
- (d). **CITY** makes an untrue, inaccurate or incomplete representation or breaches any warranty or material term of the Agreement and (A) if such breach can be cured within thirty (30) days after **CUSTOMER**'s written notice of such breach and **CITY** fails to so cure, or (B) **CITY** fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed, but not to exceed 180 days in any event.
- (e). **CITY** breaches any material term of the Agreement if (A) such breach can be cured within thirty (30) days after **CUSTOMER**'s notice of such breach and **CITY** fails to cure, or (B) **CITY** fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed.

**CUSTOMER's Remedies.** If a **CITY** Default described in Section 10.1 of this Agreement has occurred and is continuing, the **CUSTOMER** may terminate the Agreement, seek the recovery of damages and exercise any other remedy it may have at law or equity or under the Agreement.

#### 10.2 **CUSTOMER** Defaults and **CITY**'s Remedies.

**CUSTOMER** Default. The following events shall be defaults with respect to the **CUSTOMER** (each, a "**CUSTOMER** Default"):

- (a). A Bankruptcy Event shall have occurred with respect to **CUSTOMER**;
- (b). **CUSTOMER** breaches any material term of the Agreement if such breach can be cured within thirty (30) days after **CITY**'s notice of such breach and **CUSTOMER** fails to so cure, or **CUSTOMER** fails to commence and pursue said cure within such thirty (30) day period if a longer

(Continued to Sheet No. 22.7)

Issued by: Bradley L. Hiers

Effective: August 15, 2022

Director, Bartow Electric Utility

cure period is needed; or

(c). **CUSTOMER** fails to pay the **CITY** any undisputed amount due the **CITY** under the Agreement within thirty (30) days from receipt of notice from the **CITY**.

(d). **CUSTOMER** makes an untrue, inaccurate or incomplete representation or breaches any warranty or material term of the Agreement and (A) if such breach can be cured within thirty (30) days after **CITY**'s written notice of such breach and **CUSTOMER** fails to so cure, or (B) **CUSTOMER** fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed, but not to exceed 180 days in any event.

(e). **CUSTOMER** breaches any material term of the Agreement if (A) such breach can be cured within thirty (30) days after **CITY**'s notice of such breach and **CUSTOMER** fails to cure, or (B) **CUSTOMER** fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed.

**CITY's Remedies.** If a **CUSTOMER** Default described in Section 10.1 of this Agreement has occurred and is continuing, the **CITY** may terminate the Agreement, seek the recovery of damages and exercise any other remedy it may have at law or equity or under the Agreement.

**SECTION 11. DISCLAIMER OF THIRD-PARTY BENEFICIARIES.** This Agreement is solely for the benefit of and shall be binding upon the formal parties hereto and their respective authorized successors and assigns, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party to this Agreement or an authorized successor or assignee thereof.

**SECTION 12. NO WAIVER.** Any failure at any time by the **CITY** or the **CUSTOMER** to enforce a provision of the Contract, shall not constitute a waiver by such party of said provision.

**SECTION 13. AMENDMENTS.** No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of the Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing and duly signed by both parties.

(Continued to Sheet No. 22.8)

Issued by: Bradley L. Hiers  
Director, Bartow Electric Utility

Effective: August 15, 2022

**SECTION 14. ASSIGNMENTS.** Subject to the provisions contained herein, this Agreement shall be binding upon and shall inure to the benefits of the successor and assigns of the parties hereto. This Agreement may not be assigned by the **CUSTOMER** without the prior written consent of the **CITY**.

**SECTION 15. SEVERABILITY.** If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced, and if the intentions of the parties can continue to be implemented. To that end, this Agreement is declared severable.

**SECTION 16. AUTHORITY TO EXECUTE AGREEMENT.** The signature by any person to this Agreement shall be deemed a confirmation by that person that he or she has the full power and authority to bind any corporation, limited liability company, partnership, or any other business or legal entity for which he or she purports to act hereunder.

**SECTION 17. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Should suit be filed for any reason arising out of this Agreement, the parties agree that venue for such action shall lie only in the courts with jurisdiction over such matters in Polk County, Florida, or the United States District Court for the Middle District of Florida, Tampa Division. Nothing herein shall prevent the parties from pursuing their legal rights associated with nonperformance under this Agreement including instituting legal action seeking: (1) any remedies of specific performance, injunctive relief and declaratory relief available at equity; and/or (2) any money damages available at law. Both parties have contributed to the preparation, drafting and negotiation of this document and neither has had undue influence or control thereof. Both parties agree that in construing this Agreement, it shall not be construed in favor of either party by virtue of the preparation, drafting, or negotiation of this Agreement. The parties shall have the right to specifically enforce the terms and conditions of this Agreement by an action for specific performance.

**SECTION 18. NOTICES.** Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail as sent to the respective address of each party as set forth at the beginning of this Agreement. Notices sent to the **CITY** shall be addressed to the **CITY MANAGER**:

City of Bartow, City Manager

City of Bartow, City Attorney

(Continued to Sheet No. 22.9)

Issued by: Bradley L. Hiers  
Director, Bartow Electric Utility

Effective: August 15, 2022

450 N. Wilson Avenue  
PO Box 1069 (33831)  
Bartow, Florida 33830

245 South Central Avenue  
Bartow, Florida 33830

Notices sent to the **CUSTOMER** shall be addressed as follows:

Mineral Development, LLC  
4000 SR 60 East  
Mulberry, Florida 33860

**SECTION 19. SOVEREIGN IMMUNITY.** Notwithstanding any contradictory language in the Contract, nothing herein is intended to act as a waiver of the City's sovereign immunity or the limits of liability set forth in §768.28 of the Florida Statutes regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

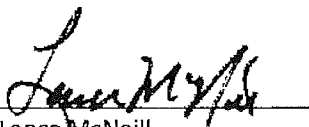
**SECTION 20. PUBLIC RECORDS.** CUSTOMER acknowledges CITY's obligations under Article I, Section 24, Florida Constitution and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CUSTOMER acknowledges that CITY is required to comply with Article I, Section 24, Florida Constitution and Chapter 119, Florida Statutes, in the handling of the information and records created by or related to this Agreement (including the Agreement itself) and that said statute controls over the terms of this Agreement that might appear to be in conflict.


In WITNESS WHEREOF, and intending to be legal bound hereby, the **CITY** and the **CUSTOMER** have caused this Agreement for the sale and purchase of electric energy and capacity to be duly executed under seal by their respective duly authorized representatives as of the date and year first above written.

SIGNATURE BLOCKS

MINERAL DEVELOPMENT, LLC

CITY OF BARTOW

  
By: Lance McNeill  
Title: President & CEO  
Date: 10/21/2020

  
By: George A. Dargatzis  
Title: City Manager  
Date: October 21, 2020

(Continued to Sheet No. 22.10)

Issued by: Bradley L. Hiers  
Director, Bartow Electric Utility

Effective: August 15, 2022

**APPENDIX A.**

**Section 7.1. Interruptions.**

(a) FMPA shall supply and deliver Wholesale Power Service hereunder to the Delivery Point(s) on a firm basis secondary to FMPA's Firm Load. FMPA may recall all or part of the Wholesale Power Service only when the following two conditions are met:

(i) During an emergency or reliability situation where FMPA does not have sufficient capacity to serve its Firm Load obligations, which shall occur when The Florida Municipal Power Pool (FMPP) is on the verge of issuing an Energy Emergency Alert (EEA) pursuant to the North American Electric Reliability Corporation (NERC) standards; and

(ii) Using its commercially reasonable efforts, FMPA is unsuccessful at securing replacement energy and associated transmission service where the cost of replacement energy required to avoid interrupting Wholesale Power Service is above the corresponding day's Gas Index multiplied by a Heat Rate of 20 MMBtu/MWh.

(b) FMPA or its agent will promptly inform Bartow as soon as reasonably possible under the circumstances upon becoming aware of any event, occurrence or circumstance that will result in the need to interrupt or recall all or part of the Wholesale Power Service or otherwise cause a material reduction or an interruption or suspension of delivery of the Wholesale Power Service to Bartow.

(c) In lieu of Wholesale Power Service interruption, Bartow may elect to be responsible for the cost of any replacement energy acquired by FMPA that exceeds the \$/MWh price set forth in Section 7.1(a)(ii) above. Upon the Service Date, and then periodically thereafter at the sole discretion of Bartow, Bartow shall provide FMPA with parameters under which Bartow affirmatively elects to accept responsibility for the cost of replacement energy in excess of the amount set forth in Section 7.1(a)(ii). If FMPA is able to procure any replacement energy timely enough to avoid Wholesale Power Service interruption, and the conditions of such procurement are within the parameters provided by Bartow, FMPA will endeavor to procure and provide replacement energy to Bartow, and FMPA will include such excess replacement energy costs as a separately itemized charge on the next monthly bill. Bartow may revise the parameters described in this Section 7.1(c) at its discretion upon written notice to FMPA. Replacement energy procured pursuant to this Section 7.1(c) shall not be accounted for as a Wholesale Power Service interruption for purposes of Section 7.2.

(d) Notwithstanding any other provision of this Agreement, FMPA shall not be responsible for any failure to deliver Wholesale Power Service due to (a) transmission system operations beyond the Delivery Point(s) or (b) interruptions of transmission service necessary to deliver Wholesale Power Service to Bartow if initiated by the Florida Reliability Coordinating Council security coordinator. FMPA disclaims any liability for third-party claims arising out of any failure to supply Wholesale Power Service hereunder, or for interruption, reversal or abnormal voltage of the supply. Any interruptions of

(Continued to Sheet No. 22.11)

Issued by: Bradley L. Hiers

Effective: August 15, 2022

Director, Bartow Electric Utility

Wholesale Power Service pursuant to this Section 7.1(d) shall not be accounted for as Wholesale Power Service interruption for purposes of Section 7.2.

**Section 7.2. Interruption Frequency.**

FMPA shall use commercially reasonable efforts not to cause interruptions of Wholesale Power Service pursuant to exceed thirty-six (36) hours per Contract Year, nor a single interruption to exceed six (6) hours in duration.