

NORTHWEST TRANSMISSION LINE SUPPLEMENTAL CHARGE

Pursuant to this tariff supplement, including the Northwest Transmission Line Supplemental Cost Recovery Agreement forms attached as Appendices 1 and 2, certain customers shall be required to pay a supplemental charge as a condition of BC Hydro (1) providing electricity to the customer by means of the Northwest Transmission Line, or (2) providing generator interconnection service to the interconnection customer which will enable delivery of its generating facility output by means of the Northwest Transmission Line, and in connection with BC Hydro recovering its net costs of developing and constructing the Northwest Transmission Line.

Interpretation

1. Terms used below have the meanings given to them in Appendices 1 and 2.

Purpose and Applicability

2. As a condition of receiving electricity supply and service from BC Hydro, a customer shall be required to enter into a Northwest Transmission Line Supplemental Cost Recovery Agreement in the form attached as Appendix 1 and pay the NTL Supplemental Charge in accordance with that agreement if:
 - (a) the customer has entered into a Facilities Agreement (Electric Tariff Supplement No. 6 or Electric Tariff Supplement No. 88, as applicable) with BC Hydro for the construction and installation of facilities required to permit interconnection of the customer's plant with the NTL or with an extension thereto (such extension may be owned by BC Hydro or a third party);
 - (b) the customer has entered into an Electricity Supply Agreement (Electric Tariff Supplement No. 5 or Electric Tariff Supplement No. 87, as applicable) with BC Hydro for the supply of electricity by means of the NTL; or

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- (c) the customer has entered into an Electric Service Agreement with BC Hydro for the construction and installation of facilities required to permit interconnection of the customer's plant with a distribution extension to the NTL (such extension may be owned by BC Hydro or a third party) and for the supply of electricity by means of the NTL at a maximum demand exceeding 5,000 kV.A and in accordance with the Electric Tariff.
3. As a condition of receiving generator interconnection service from BC Hydro, an interconnection customer shall be required to enter into a Northwest Transmission Line Supplemental Cost Recovery Agreement in the form attached as Appendix 2 and pay the NTL Supplemental Charge in accordance with that agreement if:
- (a) the interconnection customer has entered into a Standard Generator Interconnection Agreement (Open Access Transmission Tariff, Attachment M-1, Appendix 5) with BC Hydro for the purpose of interconnecting the interconnection customer's Generating Facility with the NTL or with an extension thereto (such extension may be owned by BC Hydro or a third party) and/or enabling the Generating Facility's output to be delivered by means of the NTL; and
- (b) the maximum output of the interconnection customer's Generating Facility that may be injected into the Transmission System under the SGIA will exceed 5,000 kV.A.
4. For clarity, if the Customer fails to enter into the Northwest Transmission Line Supplemental Cost Recovery Agreement as required herein, BC Hydro may, in lieu of or in addition to any other remedies provided in the tariff supplement, refuse or suspend electricity supply to, or electricity deliveries by, the Customer to BC Hydro's system, as the case may be.
5. This tariff supplement shall expire when BC Hydro has fully recovered the Actual Utility Cost from customers pursuant to Northwest Transmission Line Supplemental Cost Recovery Agreements under this tariff supplement, and all payments and repayments prescribed in such agreements have been made.

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Appendices

- Appendix 1 Agreement for Transmission and General Service Customers
- Appendix 2 Agreement for Generator Interconnection Customers

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APPENDIX 1

NORTHWEST TRANSMISSION LINE COST RECOVERY
AGREEMENT FOR TRANSMISSION AND GENERAL SERVICE CUSTOMERS

This AGREEMENT, made to be effective on the _____ day of _____ 20____,

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, having
its head office at 333 Dunsmuir Street, City of Vancouver,
Province of British Columbia

(hereinafter called "BC Hydro")

AND:

(hereinafter called the "Customer"),

WITNESSES THAT the Parties covenant, agree and declare as follows:

1 INTERPRETATION

1.1 Definitions

In this Agreement:

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- (a) “**Actual Utility Cost**” means BC Hydro’s total, actual cost of the NTL as determined by BC Hydro, less the \$130 million contribution from the Federal Government of Canada and the \$180 million contribution from Coast Mountain Hydro Limited Partnership for development and construction of the NTL. The Actual Utility Cost shall be as set out in the Schedule when it has been determined by BC Hydro;
- (b) “**Additional NTL Supplemental Charge**” means the amount determined in accordance with Section 3.4;
- (c) “**Commercial Operation Date**” means the date on which the Customer’s plant commences producing products or commodities for sale as agreed to by the Parties;
- (d) “**Commission**” means the British Columbia Utilities Commission;
- (e) “**Demand**” as applicable, means (i) the contract demand (in kV.A) specified in Section 6(a) of the Electricity Supply Agreement between the Customer and BC Hydro, or (ii) the maximum demand (in kV.A) specified in Section 6 of the Electric Service Agreement between the Customer and BC Hydro, in effect at the Commercial Operation Date;
- (f) “**Demand Increase**” has the meaning given to it in Section 3.4;
- (g) “**Dispute**” has the meaning given to it in Section 5.1;
- (h) “**Electric Service Agreement**” means the Electric Service Agreement between the Customer and BC Hydro, made as of _____, if applicable;
- (i) “**Electricity Supply Agreement**” means the Electricity Supply Agreement (Electric Tariff Supplement No. 5 or Electric Tariff Supplement No. 87, as applicable) the Customer and BC Hydro will enter into prior to BC Hydro supplying electricity to the Customer’s plant or made as of _____, as applicable;

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- (j) **“Estimated NTL Supplemental Charge”** means the amount determined in accordance with Section 3.3;
- (k) **“Estimated Utility Cost”** means \$390 million;
- (l) **“Facilities Agreement”** means the Facilities Agreement (Electric Tariff Supplement No. 6 or Electric Tariff Supplement No. 88, as applicable) between the Customer and BC Hydro, made as of _____, if applicable;
- (m) **“Northwest Transmission Line”** or **“NTL”** means
- (i) a substation in the vicinity of Bob Quinn Lake, British Columbia and related facilities and equipment, including communication, voltage support and protection and control equipment;
 - (ii) 287 kV transmission circuits and related facilities between BC Hydro’s substation at Skeena and the substation referred to in paragraph (i);
 - (iii) the following activities related to the substation, facilities and equipment referred to in paragraph (i) and the circuits and related facilities referred to in paragraph (ii): constructing; acquiring or holding rights-of-way, permits, licences, certificates, consents and other authorizations; engineering and procuring; negotiating, entering into and carrying out agreements with First Nations; demobilizing and decommissioning; securing financing; and
 - (iv) for greater certainty, the agreements referred to in Sections 2(a) and 2(b) of the *Exempt Projects, Programs, Contracts and Expenditures Regulation*, BC Reg. 302/2010, and operating, maintaining and administering activities are not part of the NTL for the purposes of this Agreement;
- (n) **“NTL Capacity”** means 375,000 kV.A;
- (o) **“NTL Supplemental Charge”** means the amount determined in accordance with Section 3.1; and

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- (p) “**Party**” means either BC Hydro or the Customer and “**Parties**” means both BC Hydro and the Customer.

1.2 Interpretation

In this Agreement, except where otherwise expressly provided or the context otherwise requires:

- (a) words importing the singular include the plural and vice versa, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Agreement;
- (b) the inclusion of headings in this Agreement is for convenience only and shall not affect the construction or interpretation of this Agreement;
- (c) any reference to a specific Section, subsection or other subdivision or to a Schedule is to the designated Section, subsection or other subdivision of, or the Schedule to, this Agreement, unless the context otherwise requires; and
- (d) all monetary amounts referred to in this Agreement are stated and shall be paid in Canadian currency.

1.3 Agreement Supplemental

- (a) The Customer’s obligations under this Agreement supplement the Customer’s obligations under the applicable sections of the Facilities Agreement, Electricity Supply Agreement and Electric Service Agreement.

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- (b) Except as specifically supplemented by this Agreement, the Facilities Agreement, Electricity Supply Agreement and Electric Service Agreement, as applicable, shall continue in full force and effect and shall govern the construction and installation of facilities required to permit interconnection of the customer's plant with BC Hydro's system, and the supply of electricity by BC Hydro to the Customer.

2 TERM

2.1 Term of Agreement

This Agreement shall commence on the date it is made effective as first set out above and, unless terminated by BC Hydro in accordance with Section 4.1(a)(iii), shall continue in force until the Customer has paid to BC Hydro the NTL Supplemental Charge and any applicable Additional NTL Supplemental Charges plus interest.

3 NTL SUPPLEMENTAL CHARGE

3.1 Calculation of NTL Supplemental Charge

The NTL Supplemental Charge is the amount determined as follows:

NTL Supplemental Charge = (Demand/NTL Capacity) x Actual Utility Cost,

provided that if collecting the amount determined in accordance with the equation above from the Customer would result in BC Hydro collecting more than the Actual Utility Cost from customers pursuant to Northwest Transmission Line Supplemental Cost Recovery Agreements, the NTL Supplemental Charge shall be adjusted by subtracting the amount in excess of that required to collect the Actual Utility Cost.

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3.2 Payment of NTL Supplemental Charge

- (a) On or before the Commercial Operation Date, the Customer shall either:
- (i) (subject to Section 3.2(b), pay BC Hydro the full amount of the NTL Supplemental Charge; or
 - (ii) agree to pay BC Hydro the NTL Supplemental Charge plus interest in installments, in accordance with Section 3.2(c).
- (b) If the Customer elects pursuant to Section 3.2(a)(i) to pay BC Hydro the full amount of the NTL Supplemental Charge, and the Commercial Operation Date falls before BC Hydro has determined the Actual Utility Cost:
- (i) the Customer shall pay BC Hydro the Estimated NTL Supplemental Charge on or before the Commercial Operation Date; and
 - (ii) within 30 days after BC Hydro has provided notice to the Customer of the Actual Utility Cost pursuant to Section 3.3(a),
 - A if the NTL Supplemental Charge is more than the Estimated NTL Supplemental Charge, the Customer shall pay BC Hydro the amount of such difference, and
 - B if the NTL Supplemental Charge is less than the Estimated NTL Supplemental Charge, BC Hydro shall pay the Customer the amount of such difference,
- such that the Customer's obligation is to pay BC Hydro the NTL Supplemental Charge.
- (c) If the Customer elects pursuant to Section 3.2(a)(ii) to pay BC Hydro the NTL Supplemental Charge plus interest in installments, BC Hydro and the Customer shall agree on a payment schedule, which shall have the following minimum terms:

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- (i) the Customer shall pay BC Hydro no less than 1/60th of the NTL Supplemental Charge plus accrued interest each month following the Commercial Operation Date;
- (ii) the unpaid amount of the NTL Supplemental Charge shall accrue interest, as follows:
 - A interest shall accrue at the Commercial Operation Date and monthly thereafter, and
 - B the rate of interest shall adjust without notice to the Customer, such that at any time it is equal to BC Hydro's weighted average cost of debt for its most recent month in which BC Hydro issues the bill; and
- (iii) if the Commercial Operation Date falls before BC Hydro has determined the Actual Utility Cost, the annual installments and interest shall be initially based on the Estimated NTL Supplemental Charge and, when BC Hydro has determined the Actual Utility Cost and provided notice to the Customer pursuant to Section 3.3(a), the installments thereafter shall be adjusted as required so that the total payments by the end of the term are equal to the NTL Supplemental Charge plus interest calculated in accordance with Section 3.2(c)(ii).
- (d) The Customer shall, by electronic funds transfer or other method as agreed to in advance by BC Hydro, pay to BC Hydro's general bank account an amount due under this Agreement, without setoff or withholding.

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3.3 Estimated NTL Supplemental Charge

- (a) If the Commercial Operation Date falls before BC Hydro has determined the Actual Utility Cost, an Estimated NTL Supplemental Charge shall be determined in accordance with Section 3.1, provided that the Estimated Utility Cost shall be substituted for the Actual Utility Cost. As soon as practicable after BC Hydro has determined the Actual Utility Cost, BC Hydro shall provide notice to the Customer of the Actual Utility Cost and update the Schedule such that it discloses the Actual Utility Cost.
- (b) BC Hydro makes no representations as to the accuracy of the Estimated Utility Cost or the Estimated NTL Supplemental Charge relative to the actual NTL Supplemental Charge. Any reliance by the Customer on the Estimated NTL Supplemental Charge shall not limit the Customer's responsibility for payment of the actual NTL Supplemental Charge under this Agreement.

3.4 Adjustments in Demand

- (a) In the event that after the Commercial Operation Date the Demand is increased in accordance with the applicable agreement (the amount of any such increase referred to as the "**Demand Increase**"), then in addition to the obligations imposed thereunder the Customer shall pay BC Hydro a supplemental amount determined as follows:

Additional NTL Supplemental Charge = (Demand Increase/NTL Capacity) x Actual Utility Cost,

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provided that if collecting the amount determined in accordance with the equation above from the Customer would result in BC Hydro collecting more than the Actual Utility Cost from customers pursuant to Northwest Transmission Line Supplemental Cost Recovery Agreements, the Additional NTL Supplemental Charge shall be adjusted by subtracting the amount in excess of that required to collect the Actual Utility Cost.

For clarity, the base amount of the NTL Supplemental Charge is fixed as of the Commercial Operation Date and a reduction in Demand under the Electricity Supply Agreement or Electric Service Agreement, as applicable, will not cause an adjustment to the NTL Supplemental Charge hereunder.

- (b) Any payment required under Section 3.4(a) is due and payable when BC Hydro approves the Demand Increase.

3.5 Taxes and Levies

The charges set out in this Agreement do not include the Goods and Services Tax, the Social Services Tax or any other tax or levy which BC Hydro may be lawfully authorized or required to add to the charges set out in this Agreement.

4 BREACH

4.1 Remedies for Breach

- (a) If the Customer fails to pay any amount owing by the Customer to BC Hydro under this Agreement or under an agreement referred to in Section 3.2(c), and the Customer fails to cure such failure to pay within 10 days after notice from BC Hydro to the Customer of such failure, then BC Hydro may:

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- (i) in lieu of or in addition to any other remedies provided by this Agreement, the Facilities Agreement, the Electricity Supply Agreement or the Electric Service Agreement, as applicable, refuse to supply electricity or discontinue without notice supply of electricity to the Customer until the amount owing by the Customer to BC Hydro under this Agreement is paid in full;
 - (ii) terminate the Facilities Agreement, the Electricity Supply Agreement or the Electric Service Agreement, as applicable; or
 - (iii) terminate this Agreement.
- (b) No action by BC Hydro under Section 4.1(a)(i), or Section 4.1(a)(ii) shall relieve the Customer from any provision of this Agreement, including the payment of any amount payable, nor shall such action be deemed to be a termination of this Agreement and the validity or duration of this Agreement shall be otherwise unaffected.

5 DISPUTE RESOLUTION

5.1 Disputes

If any dispute, question or difference of opinion between the Parties arises out of or under this Agreement ("**Dispute**"), then a Party may give to the other Party a notice ("**Dispute Notice**") specifying the Dispute and requiring its resolution under this Section 5. All Disputes must be resolved in accordance with the provisions of this Section 5, provided however, that either Party may apply to a court of competent jurisdiction for any interim relief by way of restraining order, injunction or other equitable remedy.

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5.2 Contract Representatives to Seek Resolution

If a Dispute Notice is given to a Party, each Party shall appoint a contract representative within five business days of a Party notifying the other Party of a Dispute and cause its contract representative to negotiate in good faith to attain a resolution of the Dispute.

5.3 Referral to Senior Executives

If a Dispute is not resolved within five business days of the Dispute being referred to the contract representatives, the Parties shall seek to resolve the Dispute through their respective senior executives (at the vice president level or higher) before proceeding to resolve the Dispute through arbitration in accordance with Section 5.4. Each Party shall appoint a senior executive to undertake such informal process within 10 business days of a Party notifying the other Party of a Dispute and the Parties shall use commercially reasonable efforts to resolve the Dispute through their appointed senior executives within 30 days after notification.

5.4 Referral to Arbitration

If the Dispute is not resolved within 30 days of the Dispute being referred to the senior executives, then either Party may after the end of such 30 day period submit the Dispute to arbitration under the *Commercial Arbitration Act* (British Columbia). The following rules shall apply to arbitration under this Agreement:

- (a) the arbitration shall be conducted before one arbitrator mutually agreed to by the Parties or if the Parties are unable to agree to an arbitrator within 15 days after a demand for arbitration has been given, either Party may apply to the court pursuant to the *Commercial Arbitration Act* (British Columbia) for the appointment of a single arbitrator;

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- (b) the arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and any agreement entered into under Section 3.2(c) and shall have no power to modify or change any of the above in any manner;
- (c) the arbitration shall be dealt with on an expeditious basis with both Parties using commercially reasonable efforts to obtain and implement a timely decision of the arbitrator; specifically, the arbitrator shall be instructed to impose time limits on the arbitration process such that a decision may be rendered within 45 days of appointment of the arbitrator;
- (d) the arbitrator shall determine the Dispute in accordance with the laws of the Province of British Columbia and applicable Canadian federal law; and
- (e) the Parties shall bear the costs of the arbitration equally and each Party shall bear its own costs.

5.5 Arbitration Decisions

The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards of the *Commercial Arbitration Act* (British Columbia) or the rules set out in Section 5.4. The final decision of the arbitrator must also be filed with the Commission if it affects BC Hydro's rates, terms and conditions of service or facilities.

6 MISCELLANEOUS

6.1 Successors and Assigns

- (a) This Agreement shall not be transferred or assigned by the Customer without prior written consent of BC Hydro, which consent shall not be unreasonably withheld.

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- (b) A Party shall not transfer or assign this Agreement to any person unless the assets that form the customer's plant are concurrently assigned and transferred to the same person.
- (c) BC Hydro may refuse to consent to the Customer transferring or assigning the Facilities Agreement, Electricity Supply Agreement or Electric Service Agreements, or transferring the rights and benefit to service of the customer's plant through the execution of a new Facilities Agreement, Electricity Supply Agreement or Electric Service Agreement, as applicable, to a person that accepts ownership of the assets that form the customer's plant, if this Agreement is not concurrently transferred and assigned to the same person.
- (d) If this Agreement is assigned in accordance with the terms hereof, the new customer will be entitled to the benefit of any payments made by the Customer hereunder so long as the plant continues to be connected through the same or substantially similar interconnection facilities as those used by the Customer, as determined by BC Hydro acting reasonably. For clarity, if the Demand requested by the new customer for the plant is different than the Demand reflected in this Agreement, all of the provisions of this Agreement apply as if it were a change in Demand requested by the Customer.
- (e) This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

6.2 Further Assurances

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

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6.3 Waiver

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

6.4 Amendments

No amendment of this Agreement shall be valid unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the *Utilities Commission Act* and *Clean Energy Act*.

6.5 Governing Law

This Agreement and all terms and conditions contained in it shall be governed and construed in accordance with the laws of the Province of British Columbia.

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6.6 Notices

All notices, consents, requests or demands that either Party may be required or may desire to give to the other Party under this Agreement shall be in writing and shall be deemed to be given to and received by the addressee on the business day next following when it is delivered by hand, by courier or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each Party shall give notice of from time to time.

The address that BC Hydro gives notice of is:

British Columbia Hydro & Power Authority
333 Dunsmuir Street
Vancouver, B.C.
V6B 5R3
Attention: Manager, Load Interconnections
Facsimile Number:

The address that the Customer gives notice of is:

Attention:
Facsimile Number:

Either party shall have the right at any time to change its address by notice in writing sent to the other party at the address in effect hereunder.

6.7 Counterpart Execution

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

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6.8 Electronic Delivery

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery, but that Party shall promptly also deliver in person to the other Party an originally executed copy of this Agreement.

IN WITNESS WHEREOF the parties hereto have signed this Agreement as of the date first above written.

BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY

By: _____

Name: _____

Title: _____

Customer _____

By: _____

Name: _____

Title: _____

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NORTHWEST TRANSMISSION LINE COST RECOVERY
AGREEMENT FOR TRANSMISSION AND GENERAL SERVICE CUSTOMERS

- SCHEDULE -

The Actual Utility Cost shall be \$_____.

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APPENDIX 2

NORTHWEST TRANSMISSION LINE COST RECOVERY
AGREEMENT FOR GENERATOR INTERCONNECTION CUSTOMERS

This AGREEMENT, made to be effective on the _____ day of _____ 20____,

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, having
its head office at 333 Dunsmuir Street, City of Vancouver,
Province of British Columbia

(hereinafter called "BC Hydro")

AND:

(hereinafter called the "Customer"),

WITNESSES THAT the Parties covenant, agree and declare as follows:

1 INTERPRETATION

1.1 Definitions

In this Agreement:

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- (a) “**Actual Utility Cost**” means BC Hydro’s total, actual cost of the NTL as determined by BC Hydro, less the \$130 million contribution from the Federal Government of Canada and the \$180 million contribution from Coast Mountain Hydro Limited Partnership for development and construction of the NTL. The Actual Utility Cost shall be as set out in the Schedule when it has been determined by BC Hydro;
- (b) “**Additional NTL Supplemental Charge**” means the amount determined in accordance with Section 3.4;
- (c) “**Commercial Operation Date**” is as defined in the SGIA;
- (d) “**Commission**” means the British Columbia Utilities Commission;
- (e) “**Dispute**” has the meaning given to it in Section 5.1;
- (f) “**Estimated NTL Supplemental Charge**” means the amount determined in accordance with Section 3.3;
- (g) “**Estimated Utility Cost**” means \$390 million;
- (h) “**Generating Facility**” is as defined in the SGIA;
- (i) “**Generating Facility Capacity**” is as defined in the SGIA;
- (j) “**Interconnection Service**” is as defined in the SGIA;
- (k) “**Northwest Transmission Line**” or “**NTL**” means
 - (i) a substation in the vicinity of Bob Quinn Lake, British Columbia and related facilities and equipment, including communication, voltage support and protection and control equipment;
 - (ii) 287 kV transmission circuits and related facilities between BC Hydro’s substation at Skeena and the substation referred to in paragraph (i);

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- (iii) the following activities related to the substation, facilities and equipment referred to in paragraph (i) and the circuits and related facilities referred to in paragraph (ii): constructing; acquiring or holding rights-of-way, permits, licences, certificates, consents and other authorizations; engineering and procuring; negotiating, entering into and carrying out agreements with First Nations; demobilizing and decommissioning; securing financing; and
 - (iv) for greater certainty, the agreements referred to in Sections 2(a) and 2(b) of the *Exempt Projects, Programs, Contracts and Expenditures Regulation*, BC Reg. 302/2010, and operating, maintaining and administering activities are not part of the NTL for the purposes of this Agreement;
- (l) **"NTL Capacity"** means 375,000 kV.A;
 - (m) **"NTL Supplemental Charge"** means the amount determined in accordance with Section 3.1;
 - (n) **"Output"** as applicable means: (i) if the Interconnection Customer has selected Energy Resource Interconnection Service under Article 4.1 of the SGIA, the maximum Generating Facility output (in kV.A) that may be injected into the Transmission System as identified in the applicable stability and steady state studies, or (ii) if the Interconnection Customer has selected Network Resource Interconnection Service under Article 4.1 of the SGIA, the Generating Facility Capacity (in kV.A);
 - (o) **"Output Increase"** has the meaning given to it in Section 3.4;
 - (p) **"Party"** means either BC Hydro or the Interconnection Customer and **"Parties"** means both BC Hydro and the Interconnection Customer;

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- (q) “**SGIA**” means the Standard Generator Interconnection Agreement (BC Hydro Open Access Transmission Tariff, Attachment M-1, Appendix 5) between the Interconnection Customer and BC Hydro, made as of _____;
and
- (r) “**Transmission System**” is as defined in the SGIA.

1.2 Interpretation

In this Agreement, except where otherwise expressly provided or the context otherwise requires:

- (a) words importing the singular include the plural and vice versa, “or” is not exclusive, “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference to it, a grammatical variation of a defined term shall have a corresponding meaning, and reference to any person includes such person’s successors and assigns but, if applicable, only if the succession or assignment is permitted under this Agreement;
- (b) the inclusion of headings in this Agreement is for convenience only and shall not affect the construction or interpretation of this Agreement;
- (c) any reference to a specific Section, subsection or other subdivision or to a Schedule is to the designated Section, subsection or other subdivision of, or the Schedule to, this Agreement, unless the context otherwise requires; and
- (d) all monetary amounts referred to in this Agreement are stated and shall be paid in Canadian currency.

1.3 Agreement Supplemental

- (a) The Interconnection Customer’s obligations under this Agreement supplement the Interconnection Customer’s obligations under the SGIA.

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(b) Except as specifically supplemented by this Agreement, the SGIA shall continue in full force and effect and shall govern the construction and installation of facilities required for BC Hydro to provide Interconnection Service to the Interconnection Customer.

2 TERM

2.1 Term of Agreement

This Agreement shall commence on the date it is made effective as first set out above and, unless terminated by BC Hydro in accordance with Section 4.1(a)(iii), shall continue in force until the Interconnection Customer has paid to BC Hydro the NTL Supplemental Charge and any applicable Additional NTL Supplemental Charges plus interest.

3 NTL SUPPLEMENTAL CHARGE

3.1 Calculation of NTL Supplemental Charge

The NTL Supplemental Charge is the amount determined as follows:

NTL Supplemental Charge = (Output/NTL Capacity) x Actual Utility Cost,

provided that if collecting the amount determined in accordance with the equation above from the Interconnection Customer would result in BC Hydro collecting more than the Actual Utility Cost from customers pursuant to Northwest Transmission Line Supplemental Cost Recovery Agreements, the NTL Supplemental Charge shall be adjusted by subtracting the amount in excess of that required to collect the Actual Utility Cost.

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3.2 Payment of NTL Supplemental Charge

- (a) On or before the Commercial Operation Date, the Interconnection Customer shall either:
- (i) subject to Section 3.2(b), pay BC Hydro the full amount of the NTL Supplemental Charge; or
 - (ii) agree to pay BC Hydro the NTL Supplemental Charge plus interest in installments, in accordance with Section 3.2(c).
- (b) If the Interconnection Customer elects pursuant to Section 3.2(a)(i) to pay BC Hydro the full amount of the NTL Supplemental Charge, and the Commercial Operation Date falls before BC Hydro has determined the Actual Utility Cost:
- (i) the Interconnection Customer shall pay BC Hydro the Estimated NTL Supplemental Charge on or before the Commercial Operation Date; and
 - (ii) within 30 days after BC Hydro has provided notice to the Interconnection Customer of the Actual Utility Cost pursuant to Section 3.3(a),
 - A if the NTL Supplemental Charge is more than the Estimated NTL Supplemental Charge, the Interconnection Customer shall pay BC Hydro the amount of such difference, and
 - B if the NTL Supplemental Charge is less than the Estimated NTL Supplemental Charge, BC Hydro shall pay the Interconnection Customer the amount of such difference,

such that the Interconnection Customer's obligation is to pay BC Hydro the NTL Supplemental Charge.

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- (c) If the Interconnection Customer elects pursuant to Section 3.2(a)(ii) to pay BC Hydro the NTL Supplemental Charge plus interest in installments, BC Hydro and the Interconnection Customer shall agree on a payment schedule, which shall have the following minimum terms:
- (i) the Interconnection Customer shall pay BC Hydro no less than 1/60th of the NTL Supplemental Charge plus accrued interest each month following of the Commercial Operation Date;
 - (ii) the unpaid amount of the NTL Supplemental Charge shall accrue interest, as follows:
 - A interest shall accrue at the Commercial Operation Date and monthly thereafter, and
 - B the rate of interest shall adjust without notice to the Interconnection Customer, such that at any time it is equal to BC Hydro's weighted average cost of debt for its most recent month in which BC Hydro issues the bill; and
 - (iii) if the Commercial Operation Date falls before BC Hydro has determined the Actual Utility Cost, the annual installments and interest shall be initially based on the Estimated NTL Supplemental Charge and, when BC Hydro has determined the Actual Utility Cost and provided notice to the Interconnection Customer pursuant to Section 3.3(a), the installments thereafter shall be adjusted as required so that the total payments by the end of the term are equal to the NTL Supplemental Charge plus interest calculated in accordance with Section 3.2(c)(ii).
- (d) The Interconnection Customer shall, by electronic funds transfer or other method as agreed to in advance by BC Hydro, pay to BC Hydro's general bank account an amount due under this Agreement, without setoff or withholding.

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3.3 Estimated NTL Supplemental Charge

- (a) If the Commercial Operation Date falls before BC Hydro has determined the Actual Utility Cost, an Estimated NTL Supplemental Charge shall be determined in accordance with Section 3.1, provided that the Estimated Utility Cost shall be substituted for the Actual Utility Cost. As soon as practicable after BC Hydro has determined the Actual Utility Cost, BC Hydro shall provide notice to the Interconnection Customer of the Actual Utility Cost and update the Schedule such that it discloses the Actual Utility Cost.
- (b) BC Hydro makes no representations as to the accuracy of the Estimated Utility Cost or the Estimated NTL Supplemental Charge relative to the actual NTL Supplemental Charge. Any reliance by the Interconnection Customer on the Estimated NTL Supplemental Charge shall not limit the Interconnection Customer's responsibility for payment of the actual NTL Supplemental Charge under this Agreement.

3.4 Adjustments in Output

- (a) In the event that after the Commercial Operation Date the Output is increased in accordance with the SGIA (the amount of any such increase referred to as the "**Output Increase**"), then in addition to the obligations imposed thereunder the Interconnection Customer shall pay BC Hydro a supplemental amount determined as follows:

Additional NTL Supplemental Charge = (Output Increase/NTL Capacity) x Actual Utility Cost,

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provided that if collecting the amount determined in accordance with the equation above from the Interconnection Customer would result in BC Hydro collecting more than the Actual Utility Cost from customers pursuant to Northwest Transmission Line Supplemental Cost Recovery Agreements, the Additional NTL Supplemental Charge shall be adjusted by subtracting the amount in excess of that required to collect the Actual Utility Cost.

For clarity, the base amount of the NTL Supplemental Charge is fixed as of the Commercial Operation Date and a reduction in Output under the SGIA will not cause an adjustment to the NTL Supplemental Charge hereunder.

- (b) Any payment required under Section 3.4(a) is due and payable when BC Hydro approves the Output Increase.

3.5 Taxes and Levies

The charges set out in this Agreement do not include the Goods and Services Tax, the Social Services Tax or any other tax or levy which BC Hydro may be lawfully authorized or required to add to the charges set out in this Agreement.

4 BREACH

4.1 Remedies for Breach

- (a) If the Interconnection Customer fails to pay any amount owing by the Interconnection Customer to BC Hydro under this Agreement or under an agreement made under Section 3.2(b), and the Interconnection Customer fails to cure such failure to pay within 10 days after notice from BC Hydro to the Interconnection Customer of such failure, then BC Hydro may:

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- (i) disconnect the Generating Facility from the Transmission System or refuse to allow the Interconnection Customer to deliver the Generating Facility's output using the Transmission System until the amount owing by the Interconnection Customer to BC Hydro under this Agreement is paid in full;
 - (ii) terminate the SGIA; or
 - (iii) terminate this Agreement.
- (b) No action by BC Hydro under Section 4.1(a)(i) or Section 4.1(a)(ii) shall relieve the Interconnection Customer from any provision of this Agreement, including the payment of any amount payable, nor shall such action be deemed to be a termination of the Agreement and the validity or duration of the Agreement shall be otherwise unaffected.

5 DISPUTE RESOLUTION

5.1 Disputes

If any dispute, question or difference of opinion between the Parties arises out of or under this Agreement ("**Dispute**"), then a Party may give to the other Party a notice ("**Dispute Notice**") specifying the Dispute and requiring its resolution under this Section 5. All Disputes must be resolved in accordance with the provisions of this Section 5, provided however, that either Party may apply to a court of competent jurisdiction for any interim relief by way of restraining order, injunction or other equitable remedy.

5.2 Contract Representatives to Seek Resolution

If a Dispute Notice is given to a Party, each Party shall appoint a contract representative within five business days of a Party notifying the other Party of a Dispute and cause its contract representative to negotiate in good faith to attain a resolution of the Dispute.

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5.3 Referral to Senior Executives

If a Dispute is not resolved within five business days of the Dispute being referred to the contract representatives, the Parties shall seek to resolve the Dispute through their respective senior executives (at the vice president level or higher) before proceeding to resolve the Dispute through arbitration in accordance with Section 5.4. Each Party shall appoint a senior executive to undertake such informal process within 10 business days of a Party notifying the other Party of a Dispute and the Parties shall use commercially reasonable efforts to resolve the Dispute through their appointed senior executives within 30 days after notification.

5.4 Referral to Arbitration

If the Dispute is not resolved within 30 days of the Dispute being referred to the senior executives, then either Party may after the end of such 30 day period submit the Dispute to arbitration under the *Commercial Arbitration Act* (British Columbia). The following rules shall apply to arbitration under this Agreement:

- (a) the arbitration shall be conducted before one arbitrator mutually agreed to by the Parties or if the Parties are unable to agree to an arbitrator within 15 days after a demand for arbitration has been given, either Party may apply to the court pursuant to the *Commercial Arbitration Act* (British Columbia) for the appointment of a single arbitrator;
- (b) the arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and any agreement entered into under Section 3.2(b) of this Agreement and shall have no power to modify or change any of the above in any manner;

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- (c) the arbitration shall be dealt with on an expeditious basis with both Parties using commercially reasonable efforts to obtain and implement a timely decision of the arbitrator; specifically, the arbitrator shall be instructed to impose time limits on the arbitration process such that a decision may be rendered within 45 days of appointment of the arbitrator;
- (d) the arbitrator shall determine the Dispute in accordance with the laws of the Province of British Columbia and applicable Canadian federal law; and
- (e) the Parties shall bear the costs of the arbitration equally and each Party shall bear its own costs.

5.5 Arbitration Decisions

The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards of the *Commercial Arbitration Act* (British Columbia) or the rules set out in Section 5.4. The final decision of the arbitrator must also be filed with the Commission if it affects BC Hydro's rates, terms and conditions of service or facilities.

6 MISCELLANEOUS

6.1 Successors and Assigns

- (a) This Agreement shall not be transferred or assigned by the Interconnection Customer without prior written consent of BC Hydro, which consent shall not be unreasonably withheld.
- (b) A Party shall not transfer or assign this Agreement to any person unless the Generating Facility is concurrently assigned and transferred to the same person.

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- (c) BC Hydro may refuse to consent to the Customer transferring or assigning the SGIA, or transferring the rights and benefit to deliver electricity to the POI through the execution of a new SGIA to a person that accepts ownership of the Generating Facility if this Agreement is not concurrently transferred and assigned to the same person.
- (d) If this Agreement is assigned in accordance with the terms hereof, the new customer will be entitled to the benefit of any payments made by the Customer hereunder so long as the Generating Facility continues to be connected through the same or substantially similar interconnection facilities as those used by the Interconnection Customer, as determined by BC Hydro acting reasonably. For clarity, if the Output requested by the new customer for the Generating Facility is different than the Output reflected in this Agreement, all of the provisions of this Agreement apply as if it were a change in Output requested by the Interconnection Customer.
- (e) This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

6.2 Further Assurances

Each of the Parties agrees that it shall take from time to time such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

6.3 Waiver

The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Agreement or limit that Party's right thereafter to enforce any provision or exercise any right.

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6.4 Amendments

No amendment of this Agreement shall be valid unless made in writing and executed by the appropriate duly authorized signatories of the Parties (and approved by the Commission to the extent required by law) or unless ordered by the Commission in accordance with its authority under the *Utilities Commission Act* and *Clean Energy Act*.

6.5 Governing Law

This Agreement and all terms and conditions contained in it shall be governed and construed in accordance with the laws of the Province of British Columbia.

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6.6 Notices

All notices, consents, requests or demands that either Party may be required or may desire to give to the other Party under this Agreement shall be in writing and shall be deemed to be given to and received by the addressee on the business day next following when it is delivered by hand, by courier or by facsimile copier, and is deemed to be given when received if delivered by prepaid mail at the address that each Party shall give notice of from time to time.

The address that BC Hydro gives notice of is:

British Columbia Hydro & Power Authority
333 Dunsmuir Street
Vancouver, B.C.
V6B 5R3
Attention: Manager, Transmission Generator Interconnections
Facsimile Number:

The address that the Customer gives notice of is:

Attention:
Facsimile Number:

Either Party shall have the right at any time to change its address by notice in writing sent to the other Party at the address in effect hereunder.

6.7 Counterpart Execution

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same.

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6.8 Electronic Delivery

Delivery by a Party of an executed copy of this Agreement by electronic means shall be effective delivery, but that Party shall promptly also deliver in person to the other Party an originally executed copy of this Agreement.

IN WITNESS WHEREOF the parties hereto have signed this Agreement as of the date first above written.

BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY

By: _____

Name: _____

Title: _____

Customer _____

By: _____

Name: _____

Title: _____

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COMMISSION SECRETARY

NORTHWEST TRANSMISSION LINE COST RECOVERY
AGREEMENT FOR GENERATOR INTERCONNECTION CUSTOMERS

- SCHEDULE -

The Actual Utility Cost shall be \$_____.

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