



Mark O. Marini
Director - Regulatory

September 27, 2018

VIA ELECTRONIC FILING

Honorable Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Purchase Power Agreement
Between New York State Electric & Gas Corporation and
Generate Buffalo Digester, LLC

Dear Secretary Burgess:

Pursuant to Public Service Law §110, subdivision 4, New York State Electric & Gas Corporation (“NYSEG” or “Company”) hereby submits for filing with the Commission a Power Purchase Agreement (“Agreement”) between NYSEG and Generate Buffalo Digester, LLC.

Pursuant to the Agreement, NYSEG agrees to purchase a portion of the electric energy from an electric generating facility located at 2900 North American Drive, West Seneca, New York. The dates and terms of the Agreement are noted below:

Dated 08/30/18 – for the term 08/31/2018 to 12/31/2019

NYSEG and Generate Buffalo Digester, LLC, agree that the terms of the Agreement are deemed confidential and proprietary, including but not limited to terms relating to pricing, delivery, and fees. In order to comply with the terms of the Agreement, and to safeguard the competitive position of NYSEG, the Company has requested in a separate letter to Ms. Jessica Vigers, the Commission's Records Access Officer, that pricing terms of the enclosed Agreement be granted trade secret protection under the Commission's regulations.

Honorable Kathleen H. Burgess
September 27, 2018

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Enclosed is a copy of the Agreement, with trade secret and confidential commercial terms redacted.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mark O. Marini".

Mark O. Marini

Attachment

CC: P. Fox (NYSEG/RG&E)
M. Dolan (NYSEG/RG&E)

Contract No. 2018-1GenerateBuffalo
Superseding Contract No. – No Prior Contract

New York State Electric & Gas Corporation

With

Generate Buffalo Digester, LLC

REDACTED COPY - CONFIDENTIAL TRADE SECRET STATUS

REQUESTED

Type of contract: Purchase (Energy - Capacity)

Term: 08/31/18 – 12/31/2019

Date of Execution (Signed off Internally): 09/10/2018

Date Effective: 08/31/2018

.....

Types of Contracts

-- Electric --

Purchase (Energy - Capacity)

Independent Power Producer

Sale (Energy - Capacity)

Interchange

Interconnect

Wheeling

-- Gas --

Purchase:

Short Term Less than 1 year

Intermediate 1-5 years

Long Term Over 5 Years

Spot Purchase

Sale

Capacity Assignment

Transportation

POWER PURCHASE AGREEMENT

BETWEEN

NEW YORK STATE ELECTRIC & GAS CORPORATION



AND

GENERATE BUFFALO DIGESTER, LLC

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT ("Agreement"), made and entered into as of this 30th day of August, 2018, between NEW YORK STATE ELECTRIC & GAS CORPORATION, a New York corporation with an office for the transaction of business in Kirkwood, New York ("NYSEG"), and GENERATE BUFFALO DIGESTER, LLC, a limited liability corporation located at 2800 North American Drive, West Seneca, NY ("Seller"). NYSEG and Seller shall each be considered a "Party" and collectively, they shall be referred to as the "Parties."

WITNESSETH :

WHEREAS, NYSEG is a corporation organized under the Transportation Corporations Law of the State of New York and is an "electric corporation" as defined in Section 2, subdivision 13, of the New York State Public Service Law;

WHEREAS, Seller, is a limited liability corporation, and owns, operates, and maintains electric generating equipment and appurtenant facilities, including interconnection facilities (together, the "Facility"), located at 2900 North American Drive, which is located in NYSEG's electric service territory in West Seneca, New York;

WHEREAS, NYSEG agrees to buy and Seller agrees to sell the electric energy produced by the Facility in accordance with the terms and conditions of this Agreement;

WHEREAS, the Facility constitutes a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978 ("PURPA") and its related regulations, as that law and regulations may be amended and the Facility is a "co-generation facility" as that term is defined in section 2 (2-a) of the New York Public Service Law;

WHEREAS, the Parties have executed an interconnection agreement dated as of November 26, 2013 (the "Interconnection Agreement") that governs, among other matters, the interconnection of the Facility to NYSEG's system; and

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration given one Party to the other, the sufficiency of which each Party acknowledges, Seller and NYSEG agree as follows:

ARTICLE 1. TERM

This Agreement shall become effective on August 31st, 2018 at 12:01 AM (the "Effective Date"), and this Agreement shall continue in full force and effect until 11:59 PM on December 31, 2019, unless sooner terminated in accordance with the terms hereof. This Agreement may be terminated by either Party for any reason on 30 days written notice to the other Party. The applicable provisions of this Agreement shall survive termination to allow for final payments to be made in accordance with Article 5.

ARTICLE 2. SALE TO NYSEG

2.1 The Energy generated by the 1.1MW Seller Facility and delivered to the NYSEG system shall be sold to NYSEG under this Agreement.

2.2 Seller represents that it has not obtained a Point Identifier ("PTID") from the New York Independent System Operator ("NYISO") thus not allowing Seller's generation to be bid into the NYISO by NYSEG, and this is because the Seller has elected to operate the Facility as a load modifier.

2.3 The amount of Energy, in kilowatt-hours, deemed delivered to and purchased by NYSEG during any particular hour during the term of this Agreement shall be measured by NYSEG, as the metering authority, by all NYSEG-owned meters at Blossom Substation on an hourly basis.

2.4 Except as otherwise provided in the Interconnection Agreement, the appropriate meter or meters and associated equipment shall be owned and maintained by NYSEG, at Seller's cost and expense.

ARTICLE 3. SCHEDULING OF ENERGY

Seller shall not be required to provide NYSEG with a daily schedule of Energy it intends to deliver to NYSEG, in hourly increments, for coordination with the NYISO pursuant to the NYISO Market Administration and Control Area Services Tariff ("NYISO Tariff") for provision of bids to supply Energy in the Day-Ahead Market, because the Seller has elected to operate the Facility as a load modifier.

ARTICLE 4. RATES FOR ENERGY DELIVERED TO NYSEG

Subject to the terms and conditions of this Agreement, NYSEG shall pay Seller in accordance with NYSEG's Service Classification No. 10 Cogeneration or Small Power Production - Sale of Energy to the Corporation tariff, as it may be amended or superseded, for the amounts of Energy deemed delivered to NYSEG.

ARTICLE 5. PAYMENT AND DISPUTED INVOICES

5.1 Billing Period and Payment. Unless otherwise specifically agreed upon by the Parties, the calendar month shall be the standard period for all payments under this Agreement. Seller shall read NYSEG's meters, and issue NYSEG an invoice as soon as practicable after the end of each month, showing the payment obligations, if any, incurred during the preceding month from NYSEG to Seller for the Energy delivered in accordance with this Agreement during the preceding calendar month. Within ten (10) days after receipt of invoice, NYSEG shall review the invoice and contact the Seller billing data checkout contact person per Exhibit B to tie out. Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the **twentieth fifth (25th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day.** Each Party will make payments by electronic funds transfer to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. The payment will be made per the instructions in Exhibit A. Contact information for invoices and billing are provided in Exhibit A.

5.2 Disputed Amounts. Either Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within two (2) months of the date the invoice, or adjustment was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due in accordance with section 5.1, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be

required until the dispute is resolved along with interest accrued at the Interest Rate reported as of the date of the invoice from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by NYSEG from subsequent payments, with interest. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this section within two (2) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within two (2) months after the close of the month during which performance occurred, the right to payment for such performance is waived. "Interest Rate" shall mean, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), **plus two percent (2%)**, (b) the maximum rate permitted by applicable law.

5.3 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Energy applicable to this contract through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Energy during the monthly billing period under this Agreement, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

5.4 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated as stated in Section 5.5, that Party shall pay such sum in full when due.

5.5 Credit Assurances. If a Party has reasonable grounds for insecurity with respect to the other Party's performance under this Agreement, the Party will provide written notice requesting Credit Assurance in an amount determined by the Party requesting such assurances in a commercially reasonable manner. Upon receipt of such notice the other Party shall have three (3) Business Days to provide credit assurance. In the event that the other Party fails to provide such Credit Assurance, in the amount determined by the Party in the form of Credit Assurance as defined in Exhibit B, then a breach will be deemed to have occurred.

5.6 US Federal Tax Forms. Each party to this agreement will upon signing provide the other party a completed **W-9** or a **W8-BEN if applicable.**

5.7 Currency. Unless otherwise expressly provided in this Agreement, all currency references in this Agreement refer to U.S. Dollars. If currency exchanges between U.S. Dollars and Canadian Dollars are required they shall be based on the Bank of Canada noon day rate.

ARTICLE 6. LIMITATION OF LIABILITY

6.1 Neither of the Parties or their respective officers, directors, agents, employees, parents, affiliates, successors or assigns, shall, in any event, be liable to the other party, or their officers, directors, agents, employees, successors or assigns for claims, suits, actions or causes of action or otherwise for incidental, punitive, special, indirect, multiple or consequential damages (including, without limitation, attorneys' fees or litigation costs) connected with, or resulting from, performance or non-performance of this Agreement, or any actions undertaken in connection with or related to this Agreement, including, without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty or strict liability. Nothing herein is intended to limit the liability of a Party for direct damages connected with, or resulting from, performance or non-performance of this Agreement, or any actions undertaken in connection with or related to this Agreement, including, without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty or strict liability. The provisions of this Article 6.1 shall apply regardless of fault and shall survive termination, cancellation, suspension, completion, or expiration of this Agreement.

6.2 Insurance

General Liability Coverage.

(a) Seller shall maintain during the Term hereof, General Liability Insurance of not less than [REDACTED] of combined single limit coverage or equivalent for bodily injury, personal injury, and property damage as the result of on any one occurrence.

(b) General Liability Insurance shall include coverage for Premises-Operations, Owners and Contractors Protective, Products/Completed Operations Hazard,

Explosion, Collapse, Underground, Contractual Liability, and Broad Form Property Damage including Completed Operations.

(c) Such insurance shall provide for thirty (30) days written notice to NYSEG prior to cancellation, termination, alteration, or material change of such insurance.

(d) Additional Insurance Provisions.

(i) Evidence of coverage described in Section 6.2 shall state that the coverage provided is primary and is not excess to or contributing with any insurance or self-insurance maintained by NYSEG.

(ii) NYSEG shall be named as additional insured on such coverage.

(iii) Seller shall furnish the required certificates and endorsements to NYSEG prior to commencing operations.

(iv) All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance shall be issued and submitted to the following:

New York State Electric & Gas Corporation
James A. Carrigg Center, 18 Link Drive
Binghamton, New York 13904
Attn: Vice President, Energy Services
Fax: (607) 771-0798

ARTICLE 7. INDEMNIFICATION

7.1 Each Party as indemnitor shall hold harmless and indemnify the other Party, its affiliates, and their respective directors, officers, and employees against and from any and all loss and liability for injuries to persons including employees of either Party, and damages, against all claims, demands, liabilities, judgments, costs, and expenses (including reasonable attorneys' fees) related to property damage, bodily injuries or death suffered by third parties resulting from any act or failure to act by the other Party under this Agreement including property of either Party, resulting from or arising out of: (a) engineering, design, construction, maintenance, or operation of, or (b) the installation of replacements, additions, or betterments to, the indemnitor's facilities. This indemnity and hold harmless provision shall apply

notwithstanding the active or passive negligence of the indemnitee. Neither Party shall be indemnified for liability or loss to the extent resulting from such Party's negligence or willful misconduct. The indemnitor shall, on the indemnified Party's request, defend any suit asserting a claim covered by this indemnity and shall pay all costs, including reasonable attorney fees incurred by such other Party in enforcing this indemnity.

7.2 Title and Risk of Loss. Title to and risk of loss related to the Energy shall transfer from Seller to NYSEG at the Delivery Point. Seller warrants that the Energy shall be free and clear of all liens, security interests, claims and encumbrances of any kind or any interest therein or thereto by any person.

7.3 This Article 7 shall survive any termination or the expiration of this Agreement.

ARTICLE 8. REPRESENTATION AND WARRANTIES; COVENANTS

8.1 Representations and Warranties: On the Effective Date, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any law, rule, regulation, order or the like applicable to it;

(c) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes the legally valid and binding obligation enforceable against it in accordance with its terms;

(d) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;

(e) there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceeding that could materially adversely affect its ability to perform its obligations under this Agreement; and

(f) it is acting for its own account, has made its own independent decision to enter into this Agreement, and, as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

8.2 General Covenants. Each Party covenants that throughout the term of this Agreement:

(a) it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, if applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions of its governing documents, any contracts to which it is a party, or any law, rule, regulation, or order applicable to it.

ARTICLE 9. BREACH AND TERMINATION

9.1 The failure of either Party to observe and perform any covenant, condition or agreement on its part to be performed under this Agreement and the continuance of such failure for a period of five (5) days after written notice to the defaulting Party specifying the nature of such default and requesting that it be remedied, shall constitute a breach of this Agreement.

9.2 Whenever any breach of this Agreement shall occur, the non-defaulting Party may, upon five (5) days' prior written notice to the defaulting Party, terminate this Agreement and thereupon this Agreement shall cease and terminate; provided that any remaining amounts required to be paid by one party to the other under this Agreement shall be due and payable within three (3) days of the Party's receipt of said written notice of termination.

9.3 No termination of this Agreement shall relieve the defaulting Party of any liability for its default hereunder, and the non-defaulting Party may take whatever action at law or in equity as may be necessary or desirable to enforce performance and observance of any

obligations or covenants under this Agreement, and the rights given hereunder shall be in addition to all other remedies available to the Parties, either in law, at equity or otherwise, for the breach of this Agreement.

ARTICLE 10. REGULATORY AUTHORITY

Following execution, NYSEG may promptly file a copy of this Agreement with the New York Public Service Commission ("NYPSC") for its effectiveness under Section 110 of the Public Service Law, which effectiveness shall be deemed to begin on the Effective Date. If this Agreement is modified by the NYPSC in any manner, NYSEG may deem this Agreement to have been null and void from the Effective Date. NYSEG shall provide Seller with a copy of its filing with the NYPSC.

ARTICLE 11. CONFIDENTIALITY

11.1 During the term of this Agreement, certain information that is considered proprietary or confidential may be disclosed or exchanged between the Parties. The term "Confidential Information" shall mean information disclosed hereunder by one Party to the other Party in accordance with the following procedure:

When disclosed in writing, Confidential Information shall be labeled as being confidential; and

When disclosed orally, Confidential Information shall be identified as confidential at the time of disclosure, with subsequent confirmation to the other Party in writing within ten (10) days after disclosure, identifying the date and type of information disclosed.

11.2 Each Party shall hold in confidence the other's Confidential Information and shall disclose such information within its organization only to those persons whose work requires such disclosure, and shall not, without the prior written consent of the other Party, disclose such information to any person other than the Party's employees, affiliates, affiliates' employees and lenders, counsel, accountants or advisors who have a need to know and are bound to keep such information confidential. These obligations shall not apply to any Confidential Information to the extent that it:

(a) is or becomes a matter of public knowledge through no fault of the receiving Party;

- (b) is lawfully in the possession of the receiving Party in written or other recorded form before the time of disclosure by the disclosing Party;
- (c) is lawfully acquired by the receiving Party from a source that is not under obligation to the disclosing Party regarding disclosure of such information;
- (d) is disclosed by the disclosing Party to any third party on a non-confidential basis;
- (e) is required to be disclosed pursuant to any law, including, without limitation, regulatory or governmental rules requiring or by order of any governmental entity or court; or
- (f) is developed by the receiving Party independently and without reference to the disclosing Party's Confidential Information.

11.3 In the event of a breach or threatened breach of this Article 11, the Party seeking to limit or prevent disclosure shall be entitled to seek injunctive relief, in addition to all other legal and equitable remedies, without the necessity of posting a bond or other undertaking.

ARTICLE 12. FORCE MAJEURE

12.1 Notwithstanding anything in this Agreement to the contrary, neither Seller nor NYSEG shall be liable in damages, or otherwise responsible to the other, for its failure to carry out any of its obligations under this Agreement, other than any obligation to pay an amount when due, if and only to the extent that it is unable to so perform, or is prevented from performing, by an event of force majeure.

12.2 The term "Force Majeure" as used herein means those causes beyond the reasonable control of the Party affected, which by the exercise of reasonable diligence, including Good Utility Practice (as that term is defined in the Interconnection Agreement or if the Interconnection Agreement is no longer in effect, as defined by applicable NYISO rules and regulations then in effect, or its successor entity) that Party is unable to prevent, avoid, mitigate, or overcome, including the following: any act of God, labor disturbance (including a strike, or other labor dispute), act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, solar magnetic or other electric system disturbance, order, regulation or restriction imposed by governmental, military or lawfully-established civilian authorities, acts of others

such as sabotage and acts of terror; and the Parties shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance or any other cause of a similar nature beyond a Party's reasonable control.

12.3 If a Party shall rely on the occurrence of an event of force majeure as a basis for being excused from performance of its obligations under this Agreement, then the Party relying on the event or condition shall: (i) provide prompt written notice of such force majeure event or condition to the other Party, giving a detailed written explanation of the event, including an estimation of its expected duration and the probable impact on the performance of its obligations hereunder; (ii) exercise all reasonable efforts in accordance with Good Utility Practice to continue to perform its obligations under this Agreement; (iii) expeditiously take action to correct or cure the event or condition excusing performance; provided, however, that settlement of labor disputes will be completely within the sole discretion of the Party affected by such labor dispute; and (iv) provide prompt notice to the other Party of the cessation of the event or condition giving rise to its excusal from performance.

ARTICLE 13. MISCELLANEOUS PROVISIONS AND DEFINITIONS

13.1 Notices. All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

(a) To Seller:

Generate Buffalo Digester, LLC
C/O Denali ROI
250-B Lucius Gordon Drive
Suite 8
West Henrietta, New York 14586

With a copy to:
Generate Capital
555 De Haro St
Suite 300
San Francisco, CA 94107

(b) To NYSEG:

New York State Electric & Gas Corporation
James A. Carrigg Center, 18 Link Dr.
Binghamton, New York 13904
Attn: Vice President, Energy Services
Fax: (607) 771-7098
with copies to:
Rochester Gas and Electric Corporation
89 East Avenue
Rochester, N.Y. 14649
Attn: Legal Department
Fax: (585) 724-8668

13.2 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors, NYSEG's assigns and Seller's permitted assigns.

13.3 Severability and Modification. If any article, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, phrase, provision, or portion so adjudged shall be deemed separate, distinct, and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

13.4 Prior Agreement Superseded. This Agreement contains the entire understanding of the Parties relating to the subject matter hereof, and this Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof. This Agreement in no manner supersedes or amends the Interconnection Agreement.

13.5 Applicable Law. This Agreement shall be governed and construed in accordance with the law of the State of New York, except its conflict of law provisions.

13.6 Non-Waiver. No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. In the event that any agreement or covenant herein shall be breached and thereafter waived, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

13.7 Agency. This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party.

13.8 Assignment. This Agreement may not be assigned, by operation of law or otherwise, by Seller without the prior written consent of NYSEG, which consent shall not be unreasonably withheld, conditioned or delayed, and any attempted assignment without said consent shall not be effective.

13.9 Amendments. This Agreement shall not be amended unless such amendment shall be in writing and signed by both Parties.

13.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same document.

13.11 Conflict with Interconnection Agreement. In the event of any conflict between the terms and conditions of this Agreement and the Interconnection Agreement, the Interconnection Agreement shall control.

13.12 Implementation of PURPA. Seller represents and warrants that the Facility is a qualifying facility as defined under PURPA and its related regulations (a "PURPA QF") and will remain a PURPA QF throughout the term of this Agreement. Should the Facility lose its PURPA QF status at any time during the term of this Agreement, Seller shall immediately notify NYSEG in writing, no more than (10) days following the loss of that status. NYSEG may terminate this Agreement and all obligations binding upon NYSEG hereunder upon thirty (30)

days' prior written notice to Seller if, at any time during the term of this Agreement: (i) the Facility loses its PURPA QF status, or (ii) NYSEG is or becomes no longer obligated to purchase Energy from the Facility due to a change in applicable law or regulation or by virtue of a waiver, order, decision, or authorization granted or issued by the Federal Energy Regulatory Commission ("FERC").

13.13 Recordings. The Parties hereto (i) agree that each may electronically monitor or record, at any time and from time to time, all communications between them, (ii) waive any further notice of such monitoring or recording, (iii) agree to notify its officers and employees of such monitoring or recording and to obtain their consents to such monitoring or recording if required under applicable law, and (iv) agree that any such monitoring or recording may be submitted into evidence in any suit, trial hearing, arbitration, or other proceeding.

13.14 Taxes.

(a) *Cooperation*. Each party shall use reasonable effort to implement the provisions of and to administer this Agreement insofar as it applies to the Energy in accordance with the intent of the parties to minimize all taxes, so long as neither party is materially adversely affected by such efforts.

(b) *Taxes*. Seller shall pay or cause to be paid all taxes imposed by any government authority on or with respect to the Energy arising prior to the Delivery Point. NYSEG shall pay or cause to be paid all taxes on or with respect to the Energy at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Energy and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay taxes which are NYSEG's responsibility hereunder, NYSEG shall promptly reimburse Seller for such taxes. If NYSEG is required by law or regulation to remit or pay taxes which are Seller's responsibility hereunder, NYSEG may deduct the amount of any such taxes from the sums due to Seller under this Agreement. Nothing shall obligate or cause a party to pay or be liable to pay any taxes for which it is exempt under the law.

13.15 Each Party further agrees that, for purposes of this Agreement, the other Party is not a "utility" as such term is used in 11 U.S.C. Section 366, and each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy

proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort.

13.16 Definitions.

"Affiliate" of a person shall mean any other person controlling, controlled by or under common control with such first person. For purposes hereof, "person" shall mean a natural person, a corporation, partnership, limited liability company, trust or any other organization or entity however organized.

"Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time.

"Cash" means the lawful currency of the United States of America.

"Contract Price" means the price in \$U.S. to be paid by NYSEG to Seller for the purchase of the Energy.

"Credit Rating" means, with respect to a party or a party's Guarantor on any date of determination, the rating then assigned by Moody's or S&P to its senior unsecured, unsubordinated long-term debt (not supported by insurance provider enhancement) or if such party or Guarantor does not have a rating for its senior unsecured long-term debt, then the issuer or corporate rating assigned by S&P, or the issuer rating assigned by Moody's, in each case to such party or Guarantor, or another rating by any other rating agency agreed by the parties. In the event that a party or a party's Guarantor has multiple ratings, the lower rating shall prevail. In the event either party has required the parent of the other ("Guarantor") to provide a guaranty of its obligations, it shall be referred to in this Agreement as the "Guaranty". Notwithstanding anything to the contrary contained herein, the Credit Rating used herein shall be the lowest rating assigned to a company or its debt instruments by S&P or Moody's for "Senior Unsecured" debt, "Issuer" or any form of "Secured" debt.

"Letter of Credit" - One or more irrevocable standby letters of credit, expiring in not less than 20 days, issued by a bank in a major financial center which is a major U.S. or Canadian commercial bank or foreign bank with a U.S. or Canadian branch office possessing no less than an A- rating by S&P or A3 by Moody's acceptable to the Secured Party. Each Letter of Credit shall be (A) an irrevocable Letter of Credit in the Secured Party's favor, (B) substantially in a

form acceptable to the Secured Party, and (C) fully enforceable and not the subject of any action to restrain or attempting to restrain payment thereunder.

“Delivery Point” means the point at which the Energy will be delivered and received.

"Energy" shall mean electric "energy," as such term is defined in the NYISO Tariff, generated by the Facility, less such Facility's station service use, generator lead losses and transformer losses, which quantity for purposes of this Agreement will never be less than zero.

“Moody’s” means Moody’s Investors Service, Inc., or its successor.

“S&P” means the Standard and Poor’s Rating Group (a division of McGraw-Hill, Inc.), or its successor.

"Valuation Percentage" means, for any item of Credit Assurance, the percentage specified in Exhibit B.

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement as of the date first above written.

GENERATE BUFFALO DIGESTER, LLC

Matan Friedman

Name: Matan Friedman

Title: Manager

NEW YORK STATE ELECTRIC & GAS CORPORATION



By: Joseph J. Syta

Name: Joseph J. Syta

Title: Vice President, Controller and Treasurer

Date: 9/10/18

By: Carl A. Taylor

Name: Carl A. Taylor

Title: President and CEO

Date: 9/10/18

EXHIBIT A

BILLING CONTACT AND PAYMENT INFORMATION







Attention Valued Supplier,

In an effort to lower transaction costs and expedite delivery of our payments in a quicker and safer manner, Avangrid requests a change from physical check to electronic funds transfer via Automated Clearing House/Electronic Funds

- Please use the form below and Accounts Payable will update their system to pay directly to your financial institution. *An original voided check or a Direct Deposit Authorization form from your bank must also be submitted with this form.
- ACH reduces time and resources needed in handling paper checks, depositing them in your bank, resulting in continued cost savings to your company; as well as, reduces payment issues related to lost, stolen or misdirected checks which eliminates mail delays.

****Please note all ACH payment advices will be sent via email. A paper remittance will not be mailed****

This form will authorize all payments to be automatically deposited into the banking institution designated.

My signature below indicates that I have verified and confirmed that all of the above information provided is correct.

Signature _____ Date _____

Send completed form and original documents required to: Avangrid Management Co

Accounts Payable Dept

162 Canco Rd Portland ME 04103-4219

For questions contact: VendorMaintenance_AdminUSA@avangrid.com

EXHIBIT A (Continued)

BILLING CONTACT AND PAYMENT INFORMATION

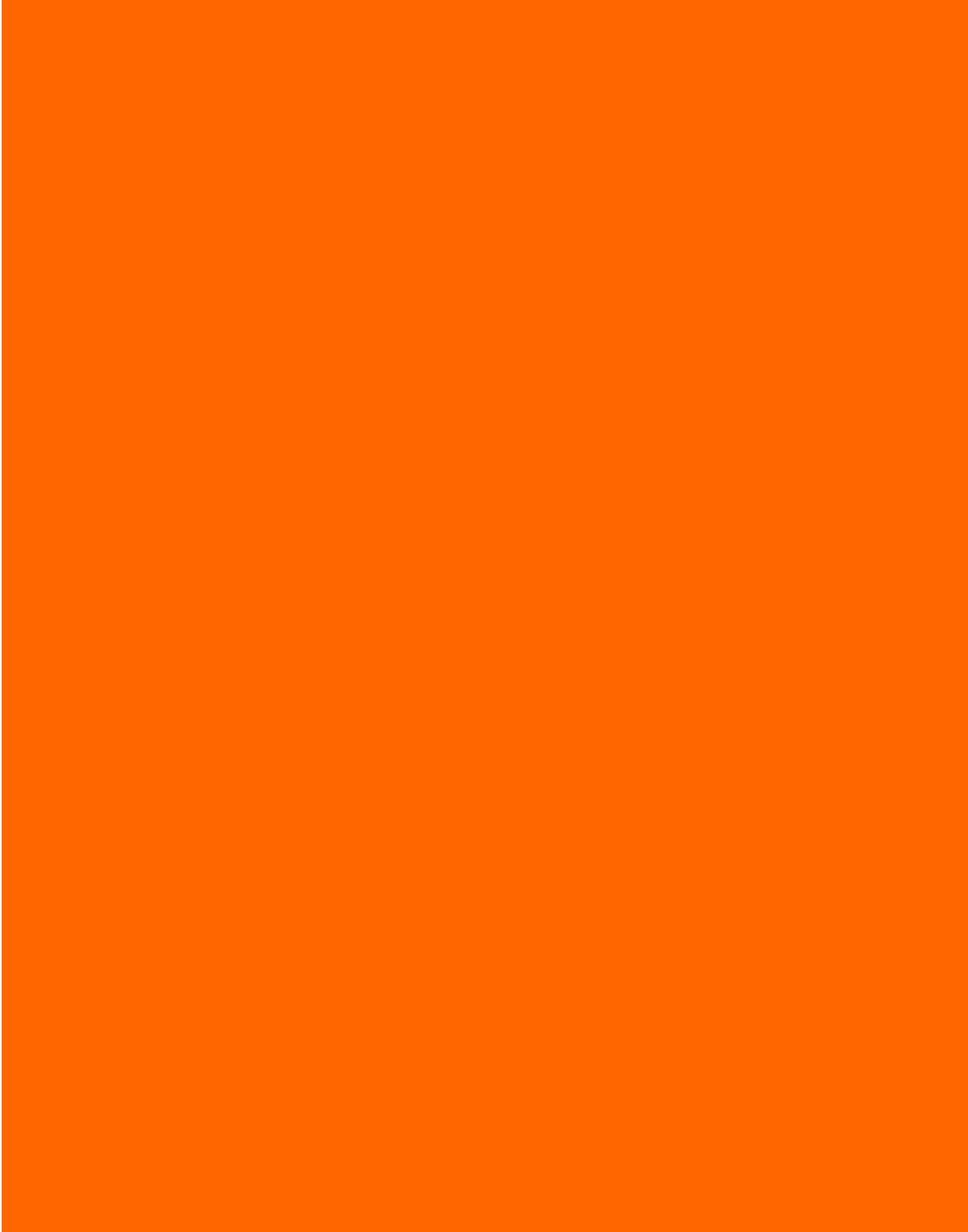



EXHIBIT B

CREDIT ASSURANCE



*A Letter of Credit shall be subject to the following provisions: Unless otherwise agreed in writing by the Parties, each Letter of Credit shall be provided in accordance with the provisions of this Agreement, and each Letter of Credit shall be maintained for the benefit of the Secured Party (references in this Exhibit C to the "Secured Party" will be to either party when acting in that capacity and all corresponding references to the "Pledgor" will be to the other party when acting in that capacity.). The Pledgor shall renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit. In all cases, the costs and expenses (including but not limited to the reasonable costs, expenses, and external attorneys' fees of the Secured Party) of establishing, renewing, substituting, canceling, increasing and reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by the Pledgor.

The following provisions apply to Cash:

The Secured Party will be entitled to hold Cash or to appoint an agent (a "Custodian") to hold Cash *provided* that the following conditions applicable to it are satisfied:

A breach has not occurred on the part of the Party.

The Cash may be held only in: United States.

These provisions will apply to both Parties unless and until the Credit Rating of such Party holding the Cash as the case may be, falls below Baa3 (Moody's) or BBB- (S&P). A Party may hold Cash only through a Custodian at any time as the other Party shall fail to maintain a Credit Rating of at least BBB- from S&P's and Baa3 from Moody's (a "Downgrade Event").

The Custodian shall be a commercial bank or trust company organized under the law of the United States or a political subdivision thereof, with a Credit Rating of at least "A-" in the case of S&P or "A3" in the case of Moody's, approved by the other party (which approval shall not be unreasonably withheld). A Party's Custodian shall not be an Affiliate of such Party.