

**TOWN OF NORTHBRIDGE  
BOARD OF SELECTMEN'S MEETING  
NORTHBRIDGE TOWN HALL  
7 MAIN STREET - WHITINSVILLE, MA 01588  
August 23, 2018 at 7:00 PM**

**SPECIAL MEETING**

**PLEDGE OF ALLEGIANCE**

**I. APPROVAL OF MINUTES**

**II. PUBLIC HEARING**

**III. APPOINTMENTS/RESIGNATIONS**

**IV. CITIZENS' COMMENTS/INPUT**

**V. DECISIONS**

A. Public Power – Revised Aggregation Agreement / Vote to approve

**VI. DISCUSSIONS:**

**VII. TOWN MANAGER'S REPORT**

**VIII. SELECTMEN'S CONCERNS**

**IX. ITEMS FOR FUTURE AGENDA**

**X. CORRESPONDENCE**

**X. EXECUTIVE SESSION**

NORTHBRIDGE TOWN CLERK  
DOREEN A. CEDRONE

18 AUG 21 AM 9:48

RECEIVED

COPY

Town Clerk: 2 Hard copies	<input type="checkbox"/>
Web: Post time-stamped copy	<input type="checkbox"/>

## **FIRST AMENDMENT TO ELECTRIC SERVICE AGREEMENT BETWEEN THE TOWN OF NORTHBRIDGE AND PUBLIC POWER LLC**

This First Amendment is entered into by the Town of Northbridge ("Municipality") and Public Power, LLC ("Competitive Supplier") is dated as of the date it has been fully executed by the Parties ("Amendment Date") and is effective September 15, 2018 ("Effective Date") and amends that certain Electric Service Agreement entered into by the Parties hereto and dated April 28, 2017 ("ESA"). Municipality and Competitive Supplier are also referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, in or about June 2018, Municipality learned that Competitive Supplier desired to increase the electricity price charged under the ESA due to a perceived Regulatory Event, as that term is defined in the ESA, concerning the Massachusetts' Department of Energy Resources' Solar Carve-Out II program ("Claimed Event");

WHEREAS, by letter dated June 13, 2018, Municipality disputed the existence of a Regulatory Event, objected to any price increase, and invoked dispute resolution pursuant to Section 12.2 of the ESA; and

WHEREAS, following dispute resolution discussions, the Parties have agreed to settle their dispute by entering into this First Amendment.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree to amend the ESA subject to the further terms and conditions below.

### **ARTICLE 1**

Section 1.31 (definition of "Regulatory Event") of the ESA is hereby amended by adding the following sentence to the end of the Section 1.31:

Notwithstanding the foregoing, the following shall not constitute a Regulatory Event: (i) implementation of a new, or changes to an existing, Governmental Rule that occurred prior to the Amendment Date even if the financial impact to Competitive Supplier of such new or changed Governmental Rule is not yet known; and (ii) changes in Competitive Supplier's costs that result from the annual setting of, and adjustments to, Competitive Supplier's obligations under the Massachusetts Department of Energy Resources' Solar Carve-Out programs, including setting the Solar Carve-Out and Solar Carve Out-II Minimum Standard and adjustments based on future Massachusetts Department of Energy Resources sponsored Solar Carve-Out and Solar Carve-Out II Clearinghouse Auctions.

## **ARTICLE 2**

Competitive Supplier represents and warrants to Municipality that the price increase agreed to by the Parties in this First Amendment represents a fair and reasonably proportionate allocation to the Municipality of the Competitive Supplier's claimed increased cost resulting from the Claimed Event, and that such price increase, is not, taking into account the remaining term of the ESA, proportionally greater than the price increase resulting from the Claimed Event agreed to, or to be negotiated in the future, with any other current municipal aggregation of Competitive Supplier in Massachusetts affected by the Claimed Event taking into account the remaining term of those ESAs. If in the future, Competitive Supplier agrees to a price increase with any other current municipal aggregation in Massachusetts for its additional costs resulting from the Claimed Event that is proportionally less than the agreed price increase under this First Amendment, the price agreed to under this First Amendment shall be subject to adjustment to ensure that the Municipality pays no more than its fair and reasonable proportionate allocation of Competitive Supplier's claimed increased costs resulting from the Claimed Event. The Parties understand, acknowledge and agree that Municipality has entered into this First Amendment in reliance upon the accuracy of the foregoing representation and warranty, which was made by Competitive Supplier with the intent to induce Municipality to enter into this First Amendment.

## **ARTICLE 3**

Section 17.1 of the ESA is hereby amended by adding the following sentence to the end of that section:

Notwithstanding the foregoing, no such allocation and collection shall occur unless and until (a) the existence and cost impact of the Regulatory Event have been reasonably demonstrated by Competitive Supplier in writing to Municipality; (b) the Parties have provided Participating Consumers with at least 30 days advance written notice of any price increase; and (c) such price increase has been set forth in an amendment to this Agreement signed by the Parties.

## **ARTICLE 4**

Exhibit A of the ESA is hereby deleted and, in its place, the Exhibit A attached to this First Amendment as Schedule 1 is substituted.

## **ARTICLE 5**

This First Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute the entire First Amendment. A

.PDF signature shall be deemed an original for all purposes. In the event of any dispute arising under this First Amendment, Section 12.1 (Choice of Law and Forum) shall apply to this First Amendment. Except as set forth in this First Amendment, the ESA remains in full force and effect.

[SIGNATURES ON NEXT PAGE]

In witness thereof, the Parties have caused this First Amendment to be executed by their duly authorized representatives, as required by the applicable laws of the Municipality and the laws, rules and regulations of the Commonwealth of Massachusetts, as of the respective dates set forth below.

**COMPETITIVE SUPPLIER**

BY:

\_\_\_\_\_  
NAME:

\_\_\_\_\_  
TITLE:

\_\_\_\_\_  
ADDRESS:

\_\_\_\_\_  
DATED:

**MUNICIPALITY**

BY:

\_\_\_\_\_  
NAME:

\_\_\_\_\_  
TITLE:

\_\_\_\_\_  
ADDRESS:

\_\_\_\_\_  
DATED:

SCHEDULE 1 TO FIRST AMENDMENT

NEW EXHIBIT A TO ESA IS AS FOLLOWS:

EXHIBIT A

PRICES AND TERMS

Community Electricity Aggregation Program

Price by Rate Classification

Rate Class	Price per kWh
Residential	\$0.10430
Commercial	\$0.10430
Industrial	\$0.10430

Terms for System Supply Service

Term: The Price and Terms stated on this Exhibit A will commence on the first Consumer meter read date after September 15, 2018 and continue until the first Consumer meter read date after December 31, 2020, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

Pricing: The price for All-Requirements Power Supply shall be as stated on this Exhibit A through Participating Consumers' meter read dates in January 2021. Except as otherwise provided herein, prices shall be fixed for the entire length of such pricing period. Prices must include all adders and ancillary charges. However, the Competitive Supplier may offer price reductions to Participating Consumers at any time during the term of this ESA.

Start-Up Service Date: All-requirements retail power supply will commence at the prices stated above as of Participating Consumer's first meter read dates after September 15, 2018.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy in the All-Requirements Power Supply mix in an amount equal to the DOER's Renewable Portfolio Standards and Alternative Energy Portfolio Standards starting with current requirement on the Start-Up Service Date or pay all penalties imposed by the DOER related to Renewable Energy requirements.

Term: The period of delivery of All Requirements Power Supply shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Consumers are to provide five (5) days' notice to the Competitive Supplier of such termination. There are no fees or charges for Participating Consumers to opt-out or terminate service.

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to Basic Service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.