



BOARD OF ALDERMEN

Thursday, August 24, 2023 at 4:00 PM

Landis Board Room

AGENDA

PLEASE SILENCE ALL CELL PHONES

1. INTRODUCTION:

- 1.1 Call Meeting to Order
- 1.2 Welcome
- 1.3 Adoption of Agenda

2. CONSIDERATIONS:

- [2.1](#) Consider adoption of Amendment Agreement No. 3 to Project Power Sales Agreement, Catawba Nuclear Project (the "Amendment Agreement"); Consider adoption of corresponding Ordinance #2023-08-24

3. CLOSING:

- 3.1 Motion to Adjourn



Item Cover Page

MEETING TYPE: Board of Alderman Special Called Meeting

DATE: August 24, 2023

SUBMITTED BY: Madison Stegall, Town Clerk

ITEM TYPE: Consideration

AGENDA SECTION: Considerations

SUBJECT: **Consider adoption of Amendment Agreement No. 3 to Project Power Sales Agreement, Catawba Nuclear Project (the "Amendment Agreement"); Consider adoption of corresponding Ordinance #2023-08-24**

DETAILS: On Monday, August 14, 2023, the Board voted and approved a portion of what is needed from the Town of Landis for this agreement. Adoption of Amendment Agreement NO. 3 and the Ordinance #2023-08-24 are the outstanding items needed.

North Carolina Municipal Power Agency Number 1 (NCMPA1) and Central Electric Power Cooperative, Inc. reached a Purchase Power Agreement enabling Central to purchase nuclear capacity and energy associated with a portion of NCMPA1’s ownership interest in the Catawba Nuclear Station. If completed, the agreement would diversify NCMPA1’s energy resource portfolio and provide wholesale electric rate savings to NCMPA1’s 19 member communities. Electricities analysis shows 5% savings in wholesale power supply costs over the term of the contract for approximately \$254 million in net present value total savings to those communities. The term of the deal is the life of the Catawba Nuclear Station which is currently licensed through 2043. Completion of the agreement is subject to several conditions including unanimous consent of all 19 of the NCMPA1 participant city and town councils. The Electricities Board of Directors and NCMPA1 Board of Commissioners have already approved the deal. Should all conditions be met, the sale would be effective January 1, 2024.

July 31, 2023

VIA FEDEX

Michael S. Colo
Of Counsel
 D: 252.972.7105
 F: 919.783.1075
 MColo@poynerspruill.com

Richard Locklear, Esq.
 Attorney for Town of Landis
 312 N. Main Street
 Landis, NC 28088

RE: Town of Landis

Dear Mr. Locklear,

In connection with your client, the Town of Landis (the “Municipality”), and the proposed Power Purchase Agreement between Power Agency and Central Electric Power Cooperative, Inc., dated as of June 5, 2023, (the “PPA”), and at the direction of Power Agency’s Board of Directors, there are enclosed the following:

1. Three (3) execution copies of Amendment Agreement No. 3 to Project Power Sales Agreement, Catawba Nuclear Project (the “Amendment Agreement”);
2. One additional, unsigned copy of the above agreement for your use;
3. A copy of the PPA;
4. A copy of Resolution BDR-4-23, adopted by Power Agency’s Board of Directors on May 25, 2023, among other things, approving and authorizing the execution and delivery of the PPA;
5. A copy of Resolution BDR-5-23, adopted by Power Agency’s Board of Directors on May 25, 2023, among other things, approving and authorizing the execution and delivery of the Amendment Agreement and recommending that it be approved and executed by the Municipality;
6. A copy of Resolution BDR-9-23, adopted by Power Agency’s Board of Directors on July 28, 2023, among other things, approving and authorizing the execution and delivery of the Agreement Regarding the Purchase and Sale of Excess Participant’s Share of Project Output (“Excess Participant’s Share Agreement”) and the Letter of Intent Regarding the Sizing of Participant’s Shares of Catawba (Post 2023) (“Letter of Intent”) and recommending that the Excess Participant’s Share Agreement be approved and executed by the Municipality;
7. An Economic Analysis of Proposed 150MW Sale from Catawba to Central, dated March 21, 2023, prepared by Power Agency’s Consulting Engineer, and an Assumptions Document Regarding NCMPA1’s Analysis of Transactions with Central – Power

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- Purchase Agreement for 150MW of NCMPA1's Catawba Output, dated March 2023 (collectively the "Economic Analysis");
8. Ordinance to be adopted by the Municipality;
 9. A Clerk's Certificate to be completed and executed by the Municipality's Clerk;
 10. Attorney's Opinion;
 11. Two (2) execution copies of an Excess Participant's Share Agreement;
 12. Letter of Intent;
 13. Cover Letter returning Power Agency's executed documents and the executed Clerk's Certificate; and
 14. Return Federal Express label for use by the Clerk in returning the Clerk's Certificate and the other documents described below.

For convenience, the Amendment Agreement is referred to herein as the "Member Contract" and the documents listed in Items No. 2-14 are referred to herein as the "PPA Documents".

The Excess Participant's Share Agreement (No. 11, above) and the Letter of Intent (No. 12, above), although not directly related to the approval of the PPA, are intended to address certain concerns raised by one of Power Agency's Participants in connection with the PPA. As you know, for some time each Participant has, pursuant to Power Agency's All Requirements Wholesale Rate Schedule, been receiving and paying for an amount of Project Output essentially equal to its load ratio share of Power Agency's total load, as opposed to its Participant's Share set forth in its Project Power Sales Agreement, Catawba Project ("PPSA"). The concern raised is that, if the Participant elected not to execute a new Supplemental Power Sales Agreement ("SPSA") following the SPSA's termination in 2028, it would only receive thereafter its Participant's Share of Project Output as set forth in the PPSA, which is less than the Participant is receiving now and which would be further reduced as a result of the PPA. In order to address this concern, and because many of the Participants' Participant's Shares presently are in excess of their respective Project Output requirements, Power Agency has drafted the Excess Participant's Share Agreement to permit it to sell such excess from Participant's Shares to Participants who can utilize and desire such excess. Since this agreement applies to all Participants, Power Agency requests that each Participant approve and execute it. In addition, the aforementioned Participant raised the same concern, its desire to receive an amount of Project Output equal to its load ratio share, in connection with any new project power sales agreement that may be negotiated and executed following the expiration of the PPSA as of January 1, 2033. To address that concern, Power Agency has prepared the Letter of Intent; since this Letter of Intent was prepared to address the specific Participant's concerns, no action is necessary in connection therewith.

In connection with the PPA, the Member Contract and the PPA Documents, we hereby request that you:

1. Supervise the adoption of the Ordinance by and the presentation of the Member Contract and PPA Documents to the Municipality in the fashion described in the Clerk's

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Certificate.

2. Assist the Clerk to the end that the Member Contract and PPA Documents are filed with the minutes of the meeting at which the Ordinance was adopted, as outlined in the Clerk's Certificate. Please bear in mind that, in connection with the adoption of the Ordinance, N.C.G.S. §160A-75 requires the affirmative vote of two-thirds of all members of the Municipality's governing body for adoption on the date the Ordinance is introduced. The Clerk's Certificate (see the following Item No. 3) has been drafted assuming the adoption of the Ordinance at one, regular meeting of the governing body of the Municipality. If more than one meeting is needed, or a special meeting is called, for the adoption of the Ordinance, please contact the undersigned and we will revise the Clerk's Certificate.
3. Request the Clerk to complete the Clerk's Certificate and return it, together with the attachments noted thereon, to the undersigned with the enclosed cover letter (Item No. 13 above), together with the documents referred to in the following Item No. 4, utilizing the enclosed return Federal Express label (Item No. 14 above).
4. Request the Clerk to return to the undersigned (i) two (2) fully executed copies of the Member Contract, and (ii) one (1) fully executed copy of the Excess Participant's Share Agreement, retaining the remaining executed copies for the Municipality.

Please note that at least two (2) signatures and an impression of the municipality's Seal are required to fully execute the foregoing Agreements. If the charter of your municipal client requires the additional endorsement by you, as the Municipality's attorney, or others on the Member Contract, please add the appropriate endorsements as you see fit.

5. Place the Attorney's Opinion (Item No. 10 above) on your letterhead and forward two (2) executed copies of the same to the undersigned, retaining the remaining executed copy for the Municipality.

The Clerk's Certificate is a critical document. Note that we have set forth in the Clerk's Certificate the Private Laws, Session Laws and Ordinances we believe make up the Charter of your municipal client. Please review it with the Municipality's Clerk to ensure that the references are complete and accurate and, if necessary, add such additional information and documents as are necessary to make the certification set forth in Section 11 of the Clerk's Certificate complete and accurate. We also ask that you send us an advance copy of any rules, laws or ordinances that you intend to attach to the Clerk's Certificate; doing so will afford us the opportunity to review that information in advance of receiving the Clerk's Certificate and help us ensure that this process is completed as efficiently as possible. We also ask that you contact the undersigned as soon as practicable if there are any laws or ordinances relating to the Charter that are pending before or have been passed by the North Carolina Legislature in 2023.

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It would be greatly appreciated if you would assist your Clerk in completing the blanks in the Clerk's Certificate and attaching the minutes of the meeting and all other documents required therein to be attached to the Certificate. In that regard, if the Charter of the Municipality contains a specific notice requirement with respect to the adoption of the Ordinance, we have referenced such requirement in the Clerk's Certificate. Please review the Clerk's Certificate carefully to determine whether or not such is the case for the Municipality. If so, please take such actions as are necessary to publish and/or post the appropriate notice(s) and provide the undersigned with copies of the notice(s) and newspaper affidavits of publication.

We ask that you request the Clerk to return the Clerk's Certificate and the other applicable documents noted as attachments thereon, and that you deliver your Attorney's Opinion to us, as soon as practicable after the Ordinance is adopted. This will help us stay on schedule and deal with any issues that may arise prior to Closing as expeditiously as possible.

Your assistance in this matter, as outlined above, is truly appreciated. Please do not hesitate to call me (252.972.7105) or my colleague, Sydney Davis (252.972.7113), if you have questions. We look forward to working with you to the end that the transactions proposed by Power Agency can be completed successfully and thank you in advance for your assistance in connection therewith.

With kindest regards, I am

Yours very truly,



Michael S. Colo

MSC:dwe

cc: Town Clerk, Madison Brown (w/o enclosures)
Town Manager, Phillip Conrad (w/o enclosures)
Tim Tunis (w/o enclosures)
Jay Morrison (w/o enclosures)

Enclosures

**Execution Copy
Town of Landis**

**NORTH CAROLINA MUNICIPAL POWER AGENCY
NUMBER 1**

**Amendment Agreement No. 3
to
Project Power Sales Agreement
Catawba Nuclear Project**

Dated as of July 28, 2023

NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

AMENDMENT AGREEMENT NO. 3

to

PROJECT POWER SALES AGREEMENT

CATAWBA NUCLEAR PROJECT

This AMENDMENT AGREEMENT No. 3 is dated as of the 28th day of July, 2023, and entered into by North Carolina Municipal Power Agency Number 1 (including successors and permitted assigns, “Power Agency”) and the municipality of the State of North Carolina (including successors and permitted assigns, the “Participant”) that has executed this Amendment Agreement No. 3 (as supplemented and amended, the “Amendment Agreement No. 3”).

WHEREAS, the parties hereto are parties to a Project Power Sales Agreement, Catawba Nuclear Project, dated as of May 1, 1978, as amended by an Amendment Agreement dated as of October 31, 1984, and an Amendment Agreement No. 2, dated as of April 15, 2005 (as amended, the “Project Power Sales Agreement”); and

WHEREAS, Power Agency has entered into a Power Purchase Agreement (as the same may be supplemented and amended, the “PPA”) with Central Electric Power Cooperative, Inc. (including successors and permitted assigns, “Central”), dated as of June 5, 2023, pursuant to which Power Agency has agreed to deliver and sell to Central, and Central has agreed to receive and purchase from Power Agency, approximately 18% of Power Agency’s Project Output; and

WHEREAS, the obligations of Power Agency and Central under the PPA are subject to, among other conditions, the (i) consent of the Participant to, and approval of, the consummation of the transactions contemplated by the PPA, and (ii) the execution of this Amendment Agreement No. 3; and

WHEREAS, Power Agency and the Participant desire to amend the Project Power Sales Agreement and enter into this Amendment Agreement No. 3 to give effect to the transactions contemplated by the PPA; and

WHEREAS, on May 25, 2023, the Board of Directors of Power Agency adopted a resolution pursuant to which it approved this Amendment Agreement No. 3 and directed that it be submitted to the Participants for approval; and

WHEREAS, the governing board of the Participant has consented to and approved the consummation of the transactions contemplated by the PPA and authorized the execution and delivery of this Amendment Agreement No. 3.

NOW, THEREFORE, the parties hereto mutually agree as follows:

Section 1. **Definitions.** Unless the context clearly indicates otherwise, all capitalized terms used in this Amendment Agreement No. 3, including the preambles hereto, which are

defined in the Project Power Sales Agreement shall for all purposes of this Amendment Agreement No. 3 have the respective meanings given to them in the Project Power Sales Agreement.

Section 2. Amendment to Project Power Sales Agreement.

(a) SubSection (n) (1) of Section 1, *Definitions*, of the Project Power Sales Agreement is hereby amended by deleting the same in its entirety and, in lieu thereof, adding the following thereto:

“(1) the amount which may be required by Power Agency during such month to pay costs pursuant to the Operating Agreement, as affected by the exchange payment provisions of Article 14 of the Interconnection Agreement, plus the payments required for the McGuire Reliability Exchange pursuant to Article 5 and Section 8.2, or Article 11, all of the Interconnection Agreement, plus the payments for Replacement Energy pursuant to Section 8.1(c) of the Interconnection Agreement, less revenues received from sales of Project Output to other than the Participants, including, but not limited to, payments received from Central Electric Power Cooperative, Inc. pursuant to the Power Purchase Agreement dated as of June 5, 2023, and payments received from Duke for Purchased Capacity, Purchased Energy and Surplus Energy pursuant to the Interconnection Agreement and for Duke’s Reliability Exchange Entitlement from the Catawba Nuclear Station pursuant to the McGuire Reliability Exchange as provided in Section 10.2(b) of the Interconnection Agreement;”

(b) Section 4, *Sale and Purchase of Participant’s Share*, of the Project Power Sales Agreement is amended hereby by inserting the following as a new second sentence thereto:

“At any particular time during the term of this Agreement, the amounts of Project Output to which Power Agency is entitled shall be calculated by giving effect to any sales thereof by Power Agency pursuant to power purchase agreements approved by all of the Participants.”

Section 3. Savings Clause. Except as herein amended, the existing provisions of the Project Power Sales Agreement shall remain in full force and effect.

Section 4. Preaudit Certification. Execution of this Amendment Agreement No. 3 by the finance officer of the Participant shall constitute a certification of such finance officer that, to the extent this Amendment Agreement No. 3 requires the Participant to satisfy a financial obligation during the Participant’s fiscal year in which the Effective Date occurs, this Amendment Agreement No. 3 has been preaudited in the manner required by the N.C. Local Government Budget and Fiscal Control Act.

Section 5. Attorney’s Approval. Execution of this Amendment Agreement No. 3 by the Town Attorney of the Participant shall constitute compliance with the provisions of Section 5.2 of the Participant’s Charter that requires the Town Attorney to inspect and pass upon all

agreements, contracts, franchises and other instruments with which the Participant may be concerned.

Section 6. Effective Date. This Amendment Agreement No. 3 shall become effective upon execution and delivery of similar agreements by Power Agency and each Participant.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment Agreement No. 3 all by authority of their respective governing bodies duly given.

Executed this ____ day of _____, 2023.

[Signatures on following page]

TOWN OF LANDIS

By: _____
Mayor

Attest:

For purposes of Section 4 only:

Town Clerk

Finance Officer

(SEAL)

For purposes of Section 5 only:

Town Attorney

Executed this ____ day of _____, 2023.

NORTH CAROLINA MUNICIPAL
POWER AGENCY NUMBER 1

By: _____
Chief Executive Officer

Attest:

Assistant Secretary
(SEAL)

[Signature Page of Amendment Agreement No. 3]

EXECUTION VERSION

POWER PURCHASE AGREEMENT

BETWEEN

CENTRAL ELECTRIC POWER COOPERATIVE, INC.

AND

NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

Dated as of June 5, 2023

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EXHIBIT 1 - MONTHLY CHARGES FORMULA METHODOLOGY

EXHIBIT 2 - FORM OF LEGAL OPINION AS TO SELLER

EXHIBIT 3 - FORM OF LEGAL OPINION AS TO PURCHASER

EXECUTION VERSION**POWER PURCHASE AGREEMENT**

This Power Purchase Agreement is made and entered into as of the 5th day of June, 2023 (the “Effective Date”), by and between CENTRAL ELECTRIC POWER COOPERATIVE, INC., a not-for-profit generation and transmission cooperative organized under the laws of the State of South Carolina (“Purchaser”), and NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1, a public body and body corporate and politic organized under the law of the State of North Carolina (“Seller”). Purchaser and Seller are hereinafter each referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Seller has a 75% ownership interest in Catawba Unit 2, located at the two-unit nuclear energy generating facility in York County, South Carolina (“Catawba”) that is operated by Duke Energy Carolinas, LLC (“Duke”); and,

WHEREAS, Seller is a party to the Interconnection Agreement which, among other things, provides Seller with certain Reliability Exchanges (as defined herein); and

WHEREAS, in accordance with the terms of the Reliability Exchanges, Seller is entitled to approximately 18.75% of the capacity and associated output from each of Catawba Unit 1 and Catawba Unit 2 and approximately 18.19% of the capacity and associated output from each of nuclear generating units known as McGuire Unit 1 and McGuire Unit 2; and

WHEREAS, Seller intends to sell to Purchaser and Purchaser intends to purchase from Seller nuclear capacity and energy associated with a portion of Seller’s ownership and contractual interest in the Catawba Project, on terms and conditions that are mutually agreeable to the Parties.

NOW THEREFORE, for and in consideration of the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are acknowledged hereby, Purchaser and Seller, each intending to be legally bound, hereby agree as follows:

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**ARTICLE 1
DEFINITIONS AND EXPLANATION OF TERMS**

1.1 Definitions. When used in this Agreement, the following capitalized terms shall have the meanings set forth below:

1.1.1 “Additional Sale Notice” has the meaning given such term in Section 15.3.

1.1.2 “Agreement” means this Power Purchase Agreement, including all exhibits attached hereto and all amendments hereto that may be made from time to time.

1.1.3 “Bankruptcy” means, with respect to a Party, if the Party (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4)(A) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any Bankruptcy Law or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official and the filing by such Party of an answer or pleading admitting or failing to contest the material allegations of any such petition, or (B) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (A) above and either (I) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (II) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take

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possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) above (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

- 1.1.4 “Bankruptcy Law” means any applicable bankruptcy or insolvency statute.
- 1.1.5 “Business Day” means any day on which Federal Reserve Member Banks in New York, New York are open for business.
- 1.1.6 “Capacity” means electric capacity (expressed in kilowatts) and all related rights, benefits and credits associated with such electric capacity.
- 1.1.7 “Catawba Nuclear Station” means that certain nuclear power plant consisting of Unit 1, Unit 2, and station support facilities located in York County, South Carolina, approximately 19 miles southwest of Charlotte, North Carolina, and situated on a peninsula on the shores of Lake Wylie, as further described in Exhibit S-VI from NCMPA1’s Purchase, Construction, and Ownership Agreement.
- 1.1.8 “Catawba Owners” means, collectively, Duke and the entities that own portions of the Catawba Nuclear Station, namely the Seller, Piedmont Municipal Power Agency, and North Carolina Electric Membership Corporation.
- 1.1.9 “Catawba Project” means Seller’s ownership interest in Catawba Unit 2 and its contractual rights in and to the Reliability Exchanges.
- 1.1.10 “Catawba Project Operating Costs” has the meaning given such term in Section 4.2.3.
- 1.1.11 “Catawba Project Output” or “CPO” (as used in Section 4.1) means Seller’s actual entitlements to energy (in kilowatt hours) from the Catawba Project, as set forth in Sections 8.1 and 8.2 of the Interconnection Agreement.

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- 1.1.12 “Catawba Replacement Energy” means energy supplied by Duke to Seller pursuant to Section 8.1 of the Interconnection Agreement in lieu of a reduction in the net output of either Catawba Unit, as called for by Duke (i) for purposes of economic dispatch, (ii) to enhance system reliability, (iii) to meet valley load situations, or (iv) to satisfy system load or frequency regulation requirements.
- 1.1.13 “Catawba Unit 1” means the so designated nuclear generating unit located at the Catawba Nuclear Station.
- 1.1.14 “Catawba Unit 2” means the so designated nuclear generating unit located at the Catawba Nuclear Station.
- 1.1.15 “Charge for Capital Additions” has the meaning given such term in Section 4.2.2.
- 1.1.16 “Confidentiality Agreement” means the agreement among Seller, Purchaser and Duke described in Section 3.1.2.
- 1.1.17 “Contract Capacity” has the meaning given such term in Section 4.1.
- 1.1.18 “Contract Energy” means the energy from the Catawba Project that Seller agrees to deliver to the Delivery Point and sell to Purchaser and Purchaser agrees to receive as determined under Section 4.1.
- 1.1.19 “Contract Year” means the 12-month period commencing on January 1, 2024 and each 12-month period thereafter during the Initial Term or Extended Term of this Agreement.
- 1.1.20 “Credit Rating” means, with respect to any Person, the rating assigned to such Person’s unsecured, senior long-term debt obligations without the support of any third party credit enhancements by any Rating Agency or, if such Person does not have a rating for its senior unsecured long-term debt, then the rating then-assigned to such Person as an issuer, issuer default, or corporate rating by any Rating Agency. If such Person is rated by more than one of S&P, Fitch and Moody’s and such ratings are not equivalent, the lowest of the ratings shall determine the Credit Rating.
- 1.1.21 “Delivery Point(s)” means the point(s), defined in Article 2 of the Interconnection Agreement, at which Energy from the Catawba Nuclear Station and McGuire Nuclear Station is delivered to the Duke

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system transmission grid, namely where Duke's high voltage transmission lines connect with the steel frames of the Catawba Nuclear Station and the McGuire Nuclear Station switchyards, respectively.

- 1.1.22 "Dispute" has the meaning given such term in Article 16.
- 1.1.23 "Eastern Prevailing Time" or "EPT" means the time prevailing in the Eastern Time zone of the United States of America.
- 1.1.24 "Effective Date" means the date set forth in the preamble to this Agreement.
- 1.1.25 "Eligible Collateral" means cash or an unconditional Letter of Credit in a form reasonably acceptable to the other Party.
- 1.1.26 "Energy" means electric energy (expressed in kilowatt-hours).
- 1.1.27 "Environmental Attribute" means (a) any beneficial emissions, air quality or other environmental attribute, aspect, characteristic, claim, credit, benefit, reduction, offset or allowance, howsoever entitled or designated, resulting from, attributable to or associated with a zero emissions generation facility, which attribute shall be related to such facility's benefits to the environment and capable of being measured, verified or calculated and (b) the reporting rights related to any such attribute, aspect, characteristic, claim, credit, benefit, reduction, offset or allowance, including the right of a party to report the ownership thereof in compliance with federal or state law, if applicable, or otherwise to a federal or state agency or any other party, including under any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes include, but are not limited to, carbon credits, portfolio credits, zero emissions credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable credits, emissions reductions, environmental air quality credits, federal, state, and local tax credits, grants or other tax incentives associated with the ownership or generation of Catawba and emissions reduction credits, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the generation of energy by a zero emissions facility, and include, without limitation, any of the same arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, or carbon, with particulate matter, soot, or mercury, or implementing an international

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convention or protocol, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency or successor administrator, and any other reward or incentive given for the use and/or generation of Energy by a zero emissions facility. Environmental Attributes includes any other environmental credits or benefits recognized in the future and attributable to energy generated by a zero emissions facility. Environmental Attributes may be associated with Contract Energy, Contract Capacity, or both.

- 1.1.28 “Event of Default” has the meaning given such term in Section 11.1.
- 1.1.29 “Existing Plant Capacity Rate” has the meaning given such term in Section 4.2.1.
- 1.1.30 “Extended Term” has the meaning set forth in Section 2.2.
- 1.1.31 “Facilities Study” means an engineering study conducted by the Transmission Provider to determine the modifications to the Transmission Provider’s transmission system, including the costs and scheduled completion dates for such modifications, if any, that will be required for Firm Transmission Service.
- 1.1.32 “FERC” means the Federal Energy Regulatory Commission or any successor Governmental Body exercising the same or equivalent jurisdiction.
- 1.1.33 “Firm Transmission Service” means (a) electric transmission service designated firm under the open access transmission tariff of a Transmission Provider having an open access transmission tariff, or (b) if purchased from a Transmission Provider that does not have an open access transmission tariff, electric transmission service sold by such Transmission Provider as firm transmission service and generally considered, pursuant to Prudent Utility Practice and NERC requirements, to be substantially equivalent to the firm transmission service referenced in section (a) of this definition, for each Wheel from the Delivery Point to the transmission system providing service to the Purchaser.
- 1.1.34 “Fitch” means Fitch Ratings, Ltd., or its successor; provided that, if Fitch ceases to exist or publish ratings, Fitch shall mean a nationally recognized statistical rating organization of similar standing

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mutually agreed upon by the Parties, which agreement will not be unreasonably withheld or delayed.

- 1.1.35 “Force Majeure” means any cause beyond the control of the Party affected and which with reasonable efforts the Party affected is unable to overcome. Provided that an event or circumstance meets the foregoing criteria, Force Majeure may include the following: acts of God; fire, flood, drought, landslide, lightning, earthquake, hurricane, volcanic eruption or tornado; famine, epidemic or quarantine; strike, lockout or other labor difficulty (but only to the extent the cause of such strike, lockout or other labor difficulty is regional or national in scope or is industry-wide and not specific to the Party claiming Force Majeure); delays caused by public bidding requirements; theft; casualty; accident; inability to obtain from any source goods, labor, equipment, information or drawings, machinery, supplies, energy, fuel, materials or rolling stock; embargo; injunction; war; civil disturbance; explosion; acts of public enemies; sabotage; or invasion.

Force Majeure shall not include (i) the inability for any reason to make payments hereunder; (ii) changes in market conditions that affect the cost or availability of supply of goods or services, (iii) changes in market conditions that affect the price of the Contract Energy or Contract Capacity, or (iv) performance, non-performance or events experienced by a contractor or subcontractor or supplier (including Operator) of any goods or services to either Party to the extent such performance, non-performance or events do not constitute Force Majeure with respect to such Party.

- 1.1.36 “Governmental Body” means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; any court or governmental tribunal and any RTO, or any other entity, having control over the security and reliability of the Grid; FERC, NRC, NERC, and SERC; provided, however, that Governmental Body shall not include any agency, court, commission, department or other such entity acting in its capacity as lender, guarantor, or mortgagee.

- 1.1.37 “Grid” means (i) at the time of this Agreement, the electric transmission system providing service to the Purchaser, or (ii) the third-party electric transmission systems that Wheel Purchaser’s energy from the Catawba Project, or (iii) if ownership or control of and jurisdiction

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over the electric transmission system providing service to the Purchaser or any such third party's electric transmission system is succeeded to by an RTO or other entity, the transmission system of that RTO or other successor entity.

- 1.1.38 "Imbalance" has the meaning given such term in Section 4.3.
- 1.1.39 "Indemnified Parties" has the meaning given such term in Article 14.
- 1.1.40 "Indemnifying Party" has the meaning given such term in Article 14.
- 1.1.41 "Initial Term" has the meaning set forth in Section 2.2.
- 1.1.42 "Interconnection Agreement" means that certain "Restated Interconnection Agreement" for the Catawba Nuclear Station between Duke and Seller, dated June 21, 1982, as amended.
- 1.1.43 "Investment Grade Credit Rating" means, with respect to any Party: (i) If such Party has a Credit Rating from a Rating Agency (but only one Rating Agency), such Party has a Credit Rating of at least "BBB+" from S&P or Fitch or at least "Baa1" from Moody's, as applicable; (ii) If such Party has a Credit Rating from more than one Rating Agency, the lowest of such Credit Ratings from the Rating Agencies is at least "BBB+" from S&P or Fitch or "Baa1" from Moody's, as applicable.
- 1.1.44 "kW" means kilowatt.
- 1.1.45 "kWh" means kilowatt-hour.
- 1.1.46 "Law" means any constitution, charter, act, statute, law, ordinance, code, rule, regulation or other applicable legislative or administrative action of any Governmental Body or any judicial or administrative interpretation thereof.
- 1.1.47 "Letter(s) of Credit" means one or more irrevocable, transferable standby letters of credit in a form acceptable to the Party in whose favor the letter of credit is issued and supported by a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof, with (i) a credit rating of at least "A-" by S&P or Fitch and "A3" by Moody's; and (ii) having a capital and surplus of at least \$1,000,000,000.

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- 1.1.48 “Material Adverse Change” means, with respect to any entity: (i) such entity does not have an Investment Grade Credit Rating (including if an entity’s only Credit Rating is suspended); or (ii) such entity does not have a Credit Rating from any Rating Agency.
- 1.1.49 “McGuire Nuclear Station” means that certain nuclear power plant consisting of Unit 1, Unit 2, and station support facilities located in Mecklenburg County, North Carolina, approximately 17 miles north of Charlotte, North Carolina, and situated on the shores of Lake Norman.
- 1.1.50 “McGuire Unit 1” means the so designated nuclear generating unit located at the McGuire Nuclear Station.
- 1.1.51 “McGuire Unit 2” means the so designated nuclear generating unit located at the McGuire Nuclear Station.
- 1.1.52 “McGuire Replacement Energy” means energy supplied by Duke to Seller pursuant to Section 8.2 of the Interconnection Agreement in lieu of a reduction in the net output of either McGuire Unit, as called for by Duke (i) for purposes of economic dispatch, (ii) to enhance system reliability, (iii) to meet valley load situations, or (iv) to satisfy system load or frequency regulation requirements.
- 1.1.53 “Month” or “month” means the period beginning HE 0100 EPT of the first day of each calendar month and ending at the beginning of the same hour of the first day of the next succeeding calendar month during the Initial Term or Extended Term (as applicable) of this Agreement.
- 1.1.54 “Monthly Capacity Rate” has the meaning given such term in Section 4.2.1.
- 1.1.55 “Moody’s” means Moody’s Investor Services, Inc. or its successor; provided that, if Moody’s ceases to exist or publish ratings, Moody’s shall mean a nationally recognized statistical rating organization of similar standing mutually agreed upon by the Parties, which agreement will not be unreasonably withheld or delayed.
- 1.1.56 “Municipalities’ Consent” means the unanimous consent to, and approval of, (i) the consummation of the transactions contemplated by this Agreement (as the same may be amended by the Parties), and (ii) such other documents or agreements as may be necessary to effect

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or implement this Agreement, from each Participant, in form and substance reasonably satisfactory to Purchaser and Seller.

- 1.1.57 “MW” means megawatt.
- 1.1.58 “MWh” means megawatt-hour.
- 1.1.59 “NERC” means the North American Electric Reliability Corporation or successor organization.
- 1.1.60 “Non-Performing Party” has the meaning given such term in Section 10.1.
- 1.1.61 “Notice of Intent to Terminate” has the meaning given such term in Section 11.2.1.
- 1.1.62 “Notice of Interest” has the meaning given such term in Section 4.4.1.
- 1.1.63 “NRC” means the Nuclear Regulatory Commission or successor organization.
- 1.1.64 “Operating and Fuel Agreement” means that certain “Restated Operating and Fuel Agreement” for the Catawba Nuclear Station between Duke and Seller, dated June 21, 1982, as amended.
- 1.1.65 “Operating Committee” has the meaning set forth in Section 5.5.
- 1.1.66 “Operating Procedure” means the implementation and operating guide for this Agreement that details, among other things, the forecast and monitoring of Contract Energy, implementing and monitoring dynamic or block schedules, calculation and settlement of Imbalance, and re-marketing of Contract Energy, as initially established pursuant to Section 5.5, and as may be updated from time-to-time with the consent of both Parties.
- 1.1.67 “Operator” means the entity responsible for the operation, maintenance, and fueling of the Units, which, as of the Effective Date of this Agreement, is Duke.
- 1.1.68 “Output” or “output” has the meaning given such term in Section 7.2.

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- 1.1.69 “Participant(s)” means each of the cities and towns that have executed and are parties to a Project Power Sales Agreement with Seller as of the Effective Date.
- 1.1.70 “Parties” has the meaning given such term in the first paragraph of this Agreement.
- 1.1.71 “Person” means any individual, partnership, corporation, Limited Liability Company, association, business, trust, Governmental Body or other entity.
- 1.1.72 “Prime Rate” means the prime rate of interest as published from time to time in the Wall Street Journal or comparable successor publication. The Prime Rate shall be calculated on the basis of a 365-day year for the actual number of days applicable to a payment, reimbursement or adjustment.
- 1.1.73 “Project Agreements” means, collectively, the Interconnection Agreement, NCMPA1’s Purchase, Construction, and Ownership Agreement, the Operating and Fuel Agreement, and the Purchase, Construction, and Ownership Agreement.
- 1.1.74 “Project Power Sales Agreement(s)” means, either individually or collectively, the Project Power Sales Agreements related to the Catawba Nuclear Project between Seller and each Participant, entered into in 1978, as amended.
- 1.1.75 “Proportionate Share” means, in any given Contract Year, (i) for the Purchaser, the ratio that Contract Capacity bears to the Seller’s Retained Capacity as of the Effective Date of this Agreement, and (ii) for the Seller, the remaining share.
- 1.1.76 “Prudent Utility Practice” means any of the practices, methods and acts engaged in, or approved by, a significant portion of the nuclear electric utility industry in the United States operating facilities of a size and technology similar to the Catawba Project during the relevant time period, which, in the exercise of reasonable judgment in light of the facts known, or that reasonably should have been known, at the time the decision was made, would have been expected to accomplish the desired result at a reasonable cost consistent with applicable Laws, reliability, safety and expedition. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices,

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methods and acts generally accepted in the United States and having due regard for current editions of the National Electrical Safety Code, the National Electric Code, Nuclear Regulatory Commission, NRC and other applicable electrical, safety and maintenance codes and standards, manufacturers' warranties and applicable Laws.

- 1.1.77 "Purchase, Construction, and Ownership Agreement" means that certain "Restated Purchase, Construction, and Ownership Agreement" for the Catawba Nuclear Station between Duke and Seller, dated June 21, 1982, as amended.
- 1.1.78 "Purchaser" has the meaning given such term in the first paragraph of this Agreement.
- 1.1.79 "Purchaser's Ratio" has the meaning given such term in Section 4.1.
- 1.1.80 "Rating Agency" means any of S&P, Moody's, or Fitch.
- 1.1.81 "Reliability Exchanges" means the exchange provisions involving Catawba Unit 1 and the McGuire Nuclear Station described in Article 5 of the Interconnection Agreement.
- 1.1.82 "Retained Capacity" means the 831,461 kW of capacity in the Catawba Project to which the Seller is entitled under Article 6 of the Interconnection Agreement as of the Effective Date.
- 1.1.83 "RTO" means any FERC-approved organization or entity that governs, controls or administers transmission access and related functions of Purchaser and Seller pursuant to the rules, concepts and specifications contained in FERC Order 2000 and related orders.
- 1.1.84 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor; provided that, if S&P ceases to exist or publish ratings, S&P shall mean a nationally recognized statistical rating organization of similar standing mutually agreed upon by the Parties, which agreement will not be unreasonably withheld or delayed.
- 1.1.85 "Scheduled Maintenance" means the removal of one or more Units that comprise the Catawba Project or a component thereof from service (which removal reduces the capability of the one or more Units to operate) to perform maintenance, overhaul, inspection, testing or repair work, as contemplated in Section 5.3.

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- 1.1.86 “Seller” has the meaning given such term in the first paragraph of this Agreement.
- 1.1.87 “SERC” means the SERC Reliability Corporation.
- 1.1.88 “Short-term Transactions” means a sale of Contract Energy in the physical forward markets on a duration basis of less than twelve (12) Months.
- 1.1.89 “Transmission Provider” means any Person, including an RTO, providing transmission services for the delivery of Contract Energy from the Delivery Point to the point of receipt on the transmission system providing service to the Purchaser.
- 1.1.90 “Unit” or “Units” means individually, or collectively, Catawba Unit 1, Catawba Unit 2, McGuire Unit 1, or McGuire Unit 2.
- 1.1.91 “Uprate Project” has the meaning given such term in Section 4.4.1
- 1.1.92 “Wheel” means the movement of energy across the transmission system of another entity.

1.2 Rules of Construction. In this Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa. The terms “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation.” The term “month” refers to a calendar month. References to Exhibit shall be references to an Exhibit to this Agreement unless specifically stated otherwise. A reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented and restated through the date as of which such reference is made. A reference to any Person includes reference to its successor or permitted assignee. The term “or” is not exclusive, the terms “shall” and “will” are mandatory and the term “may” is permissive. In the event that any index or publication referenced in this Agreement ceases to be published, each such reference shall be deemed to be a reference to a successor or alternate index or publication reasonably agreed by the Parties. Both Parties acknowledge that each was actively involved in the negotiation and drafting of this Agreement and that no law or rule of construction shall be raised or used in which the provisions of this Agreement shall be construed in favor of or against either Party because one is deemed to be the author thereof.

1.3 Consents. Whenever the consent or approval of either Party is required under this Agreement, such consent or approval shall not be unreasonably withheld, unless this Agreement provides that such consent or approval is to be given by such Party at its sole or absolute discretion

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or is otherwise qualified.

**ARTICLE 2
TERM OF AGREEMENT**

2.1 Term of Agreement. This Agreement will become effective upon execution by representatives of each Party duly empowered and authorized to so execute and will continue in effect, unless terminated pursuant to the provisions of Article 11 below, through the expiration of the Catawba Nuclear Station’s NRC operating license, as it may be extended by the NRC.

2.2 Initial and Extended Terms. The “Initial Term” shall commence on January 1, 2024, and continue in effect through December 5, 2043, the currently scheduled expiration date of the Catawba Nuclear Station’s NRC operating license. The “Extended Term,” if any, shall commence beginning on December 6, 2043 and will continue through the dates of any extension that the NRC may grant to the Catawba Nuclear Station NRC operating license (e.g., through 2063 in the case of a 20-year extension).

2.3 Survival. Applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to satisfy the terms and conditions of this Agreement and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing either Party pursuant to this Agreement and the indemnifications specified in this Agreement.

**ARTICLE 3
CONDITIONS PRECEDENT**

3.1 Notwithstanding any provisions of this Agreement to the contrary, the following shall be conditions precedent to the Parties’ respective obligations set forth in this Agreement.

3.1.1 Firm Transmission Service. Purchaser shall exercise commercially reasonable efforts to negotiate agreements for Firm Transmission Service in accordance with Prudent Utility Practice. If the Purchaser fails to enter into the necessary agreements for Firm Transmission Service on terms and conditions reasonably satisfactory to Purchaser by December 1, 2023, or such other date to which the Parties may mutually agree, Purchaser may terminate this Agreement and such termination shall be without liability to either Party arising from such termination.

3.1.2 Confidentiality Agreement with Duke. The Parties hereto, the Purchaser’s scheduling agent, and Duke, on or before December 1, 2023, shall execute an agreement permitting Seller to share with Purchaser and its scheduling agent confidential information

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provided to Seller by Duke, or developed by Seller from confidential information provided to Seller by Duke, related to the Catawba Nuclear Station and/or its operations (the “Confidentiality Agreement”). Seller and Purchaser shall exercise commercially reasonable efforts to enter into such an agreement. This Agreement, and the Parties’ obligations hereunder, will terminate automatically without further action by either Party if the Confidentiality Agreement is not executed by December 1, 2023 or such other date to which the Parties may mutually agree.

3.1.3 Municipalities’ Consent. Seller shall use commercially reasonable efforts to obtain the Municipalities’ Consent, on or before September 1, 2023, or such other date as the Parties may agree, and the Municipalities’ Consent shall be in full force and effect, and shall not have been reversed, stayed, enjoined, set aside, annulled or suspended. Either Party may terminate this Agreement if the Municipalities’ Consent is not in full force and effect on or before September 1, 2023, or such other date to which the Parties may mutually agree, and such termination shall be without liability to either Party arising from such termination.

3.1.4 Amendment to Project Power Sales Agreements. Seller shall use commercially reasonable efforts to enter into an amendment to each of its Project Power Sales Agreements with each Participant on or before September 1, 2023, or such other date as the Parties may agree, that reflects and gives effect to the terms of this Agreement with Purchaser. Either Party may terminate this Agreement if such amendments to the Project Power Sales Agreements have not been executed on or before September 1, 2023, or such other date as the Parties may agree, and such termination shall be without liability to either Party arising from such termination.

3.1.5 Bond Resolution Requirement. Seller shall use commercially reasonable efforts to obtain advice or confirmation, whether published, informal, private or confidential, from each Rating Agency currently rating any bonds outstanding under the Bond Resolution adopted by the Seller’s Board of Commissioners on November 16, 1978, as supplemented and amended (unless in any case such Rating Agency advises Seller that it does not provide the same in the ordinary course of business) to the effect that such same rating will not be downgraded as a result of Seller entering into this Agreement with Purchaser. Either Party may terminate this Agreement if Seller has not obtained such advice or confirmation (or has not received advice that the Rating Agency does not provide such advice or confirmation) on or before September 1, 2023, or such other date as the Parties may agree, and such termination shall be without liability to either Party arising from such termination.

3.1.6 Legal Opinions. Purchaser and Seller shall have received opinions of legal counsel to the other Party executed simultaneously with this Agreement substantially in the form of Exhibits 2 and 3.

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ARTICLE 4
SALE AND PURCHASE

4.1 Quantities of Contract Capacity and Contract Energy. Subject to the terms and conditions of this Agreement, Seller agrees to deliver and sell to Purchaser and Purchaser agrees to receive and purchase from Seller “Contract Capacity” and “Contract Energy” in the amounts and according to the following:

Contract Capacity: 150 MW

Contract Energy: (150,000 kW/831,461 kW) (“Purchaser’s Ratio”) X CPO

For purposes of computing Contract Energy, “CPO” is Seller’s Catawba Project Output in any given hour, including Catawba Replacement Energy and McGuire Replacement Energy, and “831,461 kW” is Seller’s Retained Capacity as of the Effective Date. With the exception of changes that may be required by the provisions of Section 4.4.3, Purchaser’s Ratio will not change after the Effective Date.

- 4.1.1 Extended Term. If there is an Extended Term, as provided in Section 2.2 of this Agreement, Contract Capacity will, unless otherwise agreed by the Parties pursuant to Section 4.4, remain at 150,000 kW and Contract Energy will remain at Purchaser’s Ratio X CPO.
- 4.1.2 Obligation to Supply and Receive. Except as otherwise permitted in this Agreement, during the Initial Term and an Extended Term, if any, the Seller shall make available to Purchaser the Contract Capacity and deliver to the Delivery Point the Contract Energy. Purchaser shall accept and receive, or cause to be accepted and received the Contract Energy at the Delivery Point for the account of Purchaser.
- 4.1.3 Allocation of Additional Rights and Obligations. Purchaser shall be entitled to and shall receive its Proportionate Share of all financial adjustments, proceeds, credits, rebates or similar benefits received by Seller related to its ownership in the Catawba Project, including rights provided in the Project Agreements, Environmental Attributes and any other attribute conferring a financial benefit to Purchaser as a result of the Catawba Nuclear Station’s existence as a nuclear facility. Purchaser shall be responsible for payment of its Proportionate Share of all costs, surcharges, fees, fines, penalties, taxes or similar obligations of Seller relative to its ownership in the Catawba Project, as set forth in Section 4.2 of this Agreement, except that Purchaser shall not be responsible for fines or penalties levied as a result of the negligence or willful misconduct of Seller.

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4.2 Charges for Contract Capacity and Contract Energy. The charges for Contract Capacity and Contract Energy in each Month of any Contract Year will consist of the Charge for Contract Capacity, the Charge for Capital Additions, the Charge for Catawba Project Operating Costs, and excise taxes or any subsequent or replacement taxes paid to the State of South Carolina related to sales of Contract Energy. Exhibit 1 to this Agreement summarizes the charges for Contract Capacity and Contract Energy and the formulaic methodology that will be used to compute monthly charges for the various charge components is set forth below (and in Exhibits 1.1, 1.2, and 1.3).

- 4.2.1 Charge for Contract Capacity. The Charge for Contract Capacity will be equal to the Contract Capacity in kW multiplied by the Monthly Capacity Rate. The “Monthly Capacity Rate” will be equal to the Existing Plant Capacity Rate (as defined below) divided by 12. The “Existing Plant Capacity Rate” for Contract Years 2024 through 2031 will be expressed on a \$/kW-year, and calculated in accordance with Exhibit 1.1. The Existing Plant Capacity Rate during the remainder of the Initial Term and the Extended Term, if any, will be \$0/kW-year.
- 4.2.2 Charge for Capital Additions. The Charge for Capital Additions in any given Month of a Contract year shall be Purchaser’s Ratio of Seller’s Catawba Project direct and indirect capital additions and associated fees billed to Seller by Duke for such Month pursuant to the Operating and Fuel Agreement, calculated in accordance with Exhibit 1.2 of this Agreement.
- 4.2.3 Charge for Catawba Project Operating Costs. The Charge for Catawba Project Operating Costs in any given Month of a Contract Year shall be the sum of the following (i) Purchaser’s Ratio of Seller’s Catawba Project non-fuel direct and indirect operating and maintenance expenses and associated operating fees billed to Seller by Duke for such Month pursuant to the Operating and Fuel Agreement, (ii) Purchaser’s Ratio of Seller’s Catawba Project related administrative and general expenses for such Month, (iii) Purchaser’s Ratio of one-twelfth (1/12) of Seller’s annual property taxes associated with the Catawba Project, (iv) Purchaser’s Ratio of Seller’s decommissioning cost accruals for such Month, (v) Purchaser’s Ratio of Seller’s Catawba nuclear fuel amortization expenses for such Month, (vi) Purchaser’s Ratio of Seller’s Catawba Replacement Energy and McGuire Replacement Energy charges, if any, and (vii) Purchaser’s Ratio of Seller’s McGuire Reliability Exchange capacity and net energy charges for such Month pursuant to Sections 5.3 and Article 8 of the Interconnection Agreement, respectively, all calculated in accordance with Exhibit 1.3 of this Agreement.

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- 4.2.4 South Carolina Excise and Other Taxes. For any given Month, Seller shall pass through to Purchaser Seller's electric power excise tax obligation associated with the Contract Energy actually delivered to the Delivery Point under this Agreement, which is billed on a cents/kWh of electric power sold for resale within South Carolina (i.e., Contract Energy), or any additional, subsequent, or successor tax that is levied by South Carolina on the sale of electric power sold for resale within the state and applicable to the Contract Energy actually delivered to the Delivery Point. Seller shall also pass through to Purchaser all taxes as required under Article 26 herein.
- 4.2.5 Partial Months. For any partial Month, the charge for Contract Capacity shall equal the amount determined pursuant to the formulaic methodology set forth in Section 4.2.1 above multiplied by a fraction, the numerator of which is the number of days of such partial Month within the Contract Year, and the denominator of which is the total number of days in such Month. The charge associated with all non-energy-related Purchaser's Proportionate Share of the Seller's Catawba Project Operating Costs will follow the same pro-rata partial month apportionment. Energy-related charges for Contract Energy (that include Catawba nuclear fuel amortization expense, Catawba Replacement Energy and McGuire Replacement Energy charges, and McGuire Reliability Exchange net energy charges) for partial Months will be based upon (and limited to) the Contract Energy actually delivered during the days of such partial Month in which Contract Energy was delivered. Notwithstanding the provisions of Article 10 herein, the payments for Contract Capacity and Purchaser's Proportionate Share of the Seller's Catawba Project Operating Costs shall be made by Purchaser during all Months of the Initial Term and any Extended Term(s).
- 4.2.6 Liability for Negligence or Willful Misconduct of Seller. Notwithstanding any other provision of this Agreement, Purchaser shall not be liable for any costs or losses incurred due to the negligence or willful misconduct of Seller. If Purchaser incurs costs or losses from the negligence of Seller, Seller shall credit the amount of such costs or losses to Purchaser pursuant to Section 8.2. In no event shall such credit exceed direct replacement energy costs incurred by Purchaser.
- 4.2.7 Liability for Negligence or Willful Misconduct of Third Parties. Notwithstanding any other provision of this Agreement, Seller shall not be responsible for the losses of Purchaser due to negligence or willful misconduct by third parties except that, if Purchaser incurs losses due to negligence or willful misconduct of Operator or another third party, Seller shall credit Purchaser to the extent that Seller recovers all or a portion of

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such losses from Operator or third party. In such event, Seller shall include a credit equal to Purchaser's Ratio of such recovery in the next ensuing monthly invoice after the recovery.

4.3 Dispatch and Scheduling. Pursuant to the Interconnection Agreement, Duke has sole responsibility for the scheduling and dispatching of the available capacity of the Catawba (and McGuire) Units. Duke is obligated to schedule and dispatch the Catawba (and McGuire) Units in accordance with Duke's standard scheduling and dispatching procedures to serve the combined loads of Duke and the other Catawba Owners. Seller will provide forecasts of its Catawba Project Output for the purpose of Purchaser developing Contract Energy schedules, and will commit to keeping Purchaser abreast of the real-time status of the Units, along with their planned/scheduled outages as described in the Operating Procedure. Purchaser acknowledges that Seller relies upon Operator to develop and communicate to the Catawba Owners such forecasts.

Purchaser will be responsible for taking delivery of the Contract Energy at the Delivery Point(s) and scheduling the Contract Energy from the Delivery Point(s). To the extent Purchaser is able to make appropriate arrangements with the Transmission Providers, Purchaser will take delivery through a dynamic schedule. Purchaser is responsible for all tagging requirements associated with the Contract Energy schedules, including compliance with all applicable NERC and NAESB standards. If, and to the extent that, any scheduling estimations, limitations or restrictions result in a difference between the actual amount of Contract Energy available in an hour and the amount of energy that is actually provided to, or for the account of, the Purchaser in that hour (the "Imbalance"), such Imbalance shall be settled as between the Purchaser and the Seller. The charge or credit for Imbalance in any given month will be based upon the Generation Imbalance (Schedule 13) charges or credits attributable to Purchaser's Contract Energy incurred by Seller pursuant to its Service Agreement for Network Integration Transmission Service with its Transmission Provider, as described in the Operating Procedure.

4.4 Power Uprates.

4.4.1 Seller shall notify Purchaser, within thirty (30) days of Seller's receipt of notice from Operator, that Operator is considering making Capital Additions to either of the Catawba Units which may increase the Catawba Project Output ("Uprate Project"). Within ninety (90) days of Purchaser's receipt of such notice, Purchaser shall notify Seller that Purchaser is either interested in participating in the Uprate Project ("Notice of Interest") or is not interested in participating in the Uprate Project. If Purchaser provides Seller a Notice of Interest, within 5 months after the date of the Notice of Interest, Purchaser shall either confirm its intent to participate or withdraw from the Uprate Project.

4.4.2 If Purchaser confirms its intent to participate in an Uprate Project, the Purchaser's Ratio would remain unchanged, and Contract Energy would increase proportionately in connection with the Uprate Project (i.e., no amendments to this Agreement would be necessary).

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4.4.3. If Purchaser declines to participate in such Uprate Project and Seller participates in the Uprate Project, the Parties will amend this Agreement in a manner such that (i) Purchaser is not responsible for the Capital Additions cost associated with the Uprate Project, and (ii) once the Uprate Project is completed, the Purchaser's Ratio would be reduced, as appropriate, recognizing the estimated increase in the Catawba Project Output as a result of the Uprate Project. If Seller and Purchaser are unable to reach an agreement regarding an amendment to this Agreement, the parties shall resolve such dispute in accordance with the dispute resolution procedures in Article 16 to effect the foregoing intent. Notwithstanding the foregoing provisions relating to Purchaser's right to participate or not participate in an Uprate Project, Seller is under no obligation to approve such Uprate Project under the Operating and Fuel Agreement. If Seller does not approve such Uprate Project under the Operating and Fuel Agreement, Purchaser will have no rights with respect to energy or capacity from the Uprate Project.

4.5 Re-marketing of Contract Energy by Seller. If requested by Purchaser in accordance with the terms relating to re-marketing of Contract Energy by Seller set forth in the Operating Procedure, Seller will make commercially reasonable efforts to re-market Contract Energy on Purchaser's behalf in Short-term Transactions in a manner that is reasonably expected to result in no financial detriment to Seller. The determination of the existence or expectation of financial detriment to Seller shall be made by Seller in its sole discretion. If Purchaser requests Seller to re-market Contract Energy, Purchaser will inform Seller of the applicable re-marketing period and appropriately adjust all Contract Energy delivery schedules during the applicable period. Revenues due to Purchaser derived from such Short-term Transactions will be credited to the account of Purchaser on the next ensuing monthly invoice, as shown on Exhibit 1.

Purchaser reserves the right to re-market Contract Energy on its own or through a third party so long as such re-marketing does not violate any covenants or conditions of this Agreement. Any costs, fees or penalties incurred by Purchaser, or a third party acting on Purchaser's behalf, associated with Purchaser's decision to re-market Contract Energy will be the sole responsibility of Purchaser.

4.6 Contract Energy Statement. Concurrently with the issuance of each monthly invoice by Seller, Seller shall submit to Purchaser a statement setting forth in reasonable detail the quantity of Contract Energy actually delivered to Purchaser from the Catawba Project as described in the Operating Procedure. Purchaser acknowledges that Seller relies upon Operator to develop and communicate to the Catawba Owners such information.

4.7. No Adverse Distinction. During the term of this Agreement, Seller shall exercise any rights it has under the Project Agreements to avoid any adverse distinction made by Duke (or any future operator of the Catawba Project) between dispatch of the Catawba Project and any other assets Duke (or a future operator) holds. Additionally, when Duke supplies Seller Catawba Replacement Energy or McGuire Replacement Energy, Seller shall not distinguish between

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Purchaser and any of Seller's other customers when delivering such Catawba Replacement Energy and McGuire Replacement Energy.

**ARTICLE 5
COMMUNICATION, SCHEDULED MAINTENANCE, CATAWBA COST
PROJECTIONS, AND OPERATING COMMITTEE**

5.1 Communication. Purchaser and Seller shall follow the procedures for notice and communication of energy delivery and transmission issues described in the Operating Procedure.

5.2 Recording. The Parties hereby consent to the recording of all conversations on the telephone lines used for communicating scheduling of Contract Energy and related notices and instructions in accordance with customary industry practice. The contents of such recordings shall be definitive, except in the case of manifest error.

5.3 Scheduled Maintenance. Prior to September 1st of each Contract Year, the Seller shall provide Purchaser with a schedule indicating the Operator's target dates and durations of planned maintenance outages of the Units for the following calendar year and beyond (extending as many years as the Operator has provided). Thereafter, the Seller shall provide Purchaser with as much notice as practicable should changes to the previously submitted schedule occur and shall provide Purchaser updated information from time to time as to the status and anticipated availability of the Units, including current planned Unit maintenance outages and the commencement of and anticipated completion of forced outages. All information related to planned outages of the Units, as provided by Seller, shall be subject to the Confidentiality Agreement. Purchaser acknowledges that Seller relies upon Operator to develop and communicate to the Catawba Owners the yearly planned maintenance outage schedules and updates thereto.

5.4 Catawba Cost Projections. Prior to September 15th of each Contract Year, Seller shall provide Purchaser with the Operator's most current estimates of the Catawba Nuclear Station's direct and indirect operation and maintenance and capital additions costs for the immediately following Contract Year. Prior to December 15th of each Contract Year, Seller shall provide Purchaser with the Operator's estimates of the Catawba Nuclear Station's direct and indirect operation and maintenance and capital additions costs that will be billed under the Operating Agreement on an estimated basis for the immediately following Contract Year. Prior to February 1st of each Contract Year, Seller shall provide Purchaser with the Operator's 5-year planning estimates of the Catawba Nuclear Station's operation and maintenance and capital additions costs. At any time during each Contract Year, to the extent the Operator provides preliminary estimates of operating and maintenance and capital additions costs to Seller, Seller shall endeavor to provide such estimates to the Purchaser. All information related to the estimates of the Catawba Nuclear Station's operation and maintenance and capital additions costs, as provided by Seller, shall be subject to the Confidentiality Agreement. Purchaser acknowledges

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that Seller relies upon Operator to develop and communicate to the Catawba Owners the annual estimations of operation and maintenance and capital additions costs.

5.5 Operating Committee. The Parties shall establish an “Operating Committee” consisting of two (2) representatives each. The Operating Committee shall facilitate the coordination and interaction between the Parties with respect to the performance of the duties and obligations imposed on the Parties hereunder, including initial development of the Operating Procedure that shall be finalized no later than November 1, 2023. The Operating Committee shall update the Operating Procedure from time to time, as needed. The Operating Committee shall not, however, have any authority to modify or otherwise alter the Parties’ rights and obligations under this Agreement.

**ARTICLE 6
INTERCONNECTION AND TRANSMISSION**

6.1 Interconnection. Pursuant to the Interconnection Agreement, the Units interconnect with Duke’s transmission system at the Delivery Point.

6.2 Transmission. Purchaser shall be responsible for all costs associated with and for making all arrangements, including tagging and any required ancillary services, with the Transmission Providers for transmission from and beyond the Delivery Point of Energy delivered by Seller to Purchaser pursuant to this Agreement.

**ARTICLE 7
RISK OF LOSS; HOURLY CATAWBA PROJECT OUTPUT**

7.1 Risk of Loss. Contract Energy delivered pursuant to this Agreement shall be made available to Purchaser at the Delivery Point. Title and risk of loss with respect to all Contract Energy shall pass to Purchaser when Contract Energy is made available to Purchaser at the Delivery Point. Except to the extent expressly limited in this Agreement, Purchaser shall bear all risk of all occurrences of any nature (including any event beyond the reasonable control of either Party) affecting any interconnection facilities, substations, transmission lines and other facilities beyond the Delivery Point.

7.2 Hourly Catawba Project Output. Pursuant to Sections 8.1(D) and 8.2(D) of the Interconnection Agreement, for purposes of measuring Catawba Project Output in any given hour, the Output is derived algorithmically as follows:

In any hour, the Output of Catawba Unit X and the Output of McGuire Unit X shall be derived using the following equations:

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Output of Catawba Unit X = GNA (gross output of Catawba Unit X) + GNB

Output of McGuire Unit X = GNA (gross output of McGuire Unit X) + GNB

Where GNA and GNB are constants for the respective unit supplied by Duke and derived by the application of a “least squares” linear curve fitting program to a representative sample of metered gross output and corresponding net output values for the Unit in question.

The gross output of Catawba and McGuire Units are metered by Duke on a real time basis and such hourly integrated values of Catawba Project Output (as measured in kWh) are provided to NCMPA1 on its Interconnection Agreement monthly invoice.

**ARTICLE 8
METHOD OF PAYMENT**

8.1 Invoicing and Payment. As soon as reasonably practicable after the first day of each Month, commencing with the second Month or portion thereof during which any Contract Energy is delivered to Purchaser and continuing for each Month until the first Month after the termination of this Agreement, Seller shall submit to Purchaser an invoice as described in Section 8.2. If such invoice indicates a net amount payable to Seller, Purchaser shall pay such invoice within fifteen (15) Business Days of Purchaser’s receipt of the invoice. Such payment shall be made, in U.S. dollars, by wire transfer or ACH of immediately available funds prior to 3:00 p.m. Eastern Prevailing Time, on the date of payment, to Seller at its account with _____, Account No. _____ (ABA No. _____) or such other account in the continental United States as Seller shall direct in a notice to Purchaser at least ten (10) Business Days prior to the date such payment is due. Payments made after 3:00 p.m. Eastern Prevailing Time or on a day that is not a Business Day shall be deemed to be made on the next subsequent Business Day. If such invoice indicates a net amount payable to Purchaser, Seller shall pay such amount within fifteen (15) Business Days of Purchaser’s receipt of the invoice.

8.2 Monthly Invoices. Each Monthly invoice shall show the amount and calculation of the following, as applicable: (i) the Charge for Contract Capacity, the Charge for Capital Additions, and the Charge for Catawba Project Operating Costs payable by Purchaser to Seller for the preceding Month, as more fully outlined in Exhibit 1, net of any amounts to be credited by Seller to Purchaser for such Month; and (ii) payments, refunds, credits and reductions, if any, payable by either Party pursuant to Section 8.3 and Section 8.4.

8.3 Late Payments. Any amount due from either Party hereunder not paid in full on or before the date such payment is due will incur a late payment charge on the unpaid amount from the original due date until the date paid at an annual rate equal to the then Prime Rate plus one (1)

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percentage point.

8.4 **Billing Disputes.** In the event of any dispute as to all or any portion of any Monthly invoice, Purchaser shall give notice of the dispute to Seller but shall pay the full amount of the invoice when due (or if applicable, Seller shall give notice to Purchaser of Seller's dispute regarding any information provided by Purchaser that was a factor in any calculation supporting invoiced amounts). Each notice shall state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. Purchaser and Seller shall give all due and prompt consideration to any such dispute. Upon final determination (whether by agreement, dispute resolution pursuant to Article 16 hereof, or otherwise) of the dispute, any amounts due to Purchaser or Seller, together with simple interest from the date due until the date paid at the Prime Rate, shall be paid no later than 30 days following such final determination.

8.5 **Audit Rights.** Each Party, or any authorized third-party representative of a Party, shall keep complete and accurate records, and shall maintain such data as may be necessary for the purpose of ascertaining the accuracy of all relevant data, estimates, or statements of charges submitted hereunder for a period of two (2) full calendar years, or longer if a dispute is timely brought by a Party consistent with this Agreement. Within a two (2) year period from the date an invoice is delivered under this Agreement, either Party may request in writing copies of the records supporting the invoice and audit the other Party's books and records (or other information to which the other Party has access) to the extent reasonably necessary to verify the accuracy of any statement or charge. The Party from which documents or data have been requested shall cooperate in providing the documents and data within a reasonable time period. If a Party brings a timely dispute consistent with the requirements of this Agreement, both Parties agree to retain complete and accurate records and such data as may be necessary for the purpose of ascertaining the accuracy of all relevant data, estimates, or statements of charges submitted hereunder until the dispute is resolved. The Parties shall maintain their respective books and records in accordance with generally accepted accounting principles applicable from time to time.

ARTICLE 9**REGIONAL TRANSMISSION ORGANIZATION; ENVIRONMENTAL ATTRIBUTES**

9.1 **Formation of RTO.** In the event that the formation of one or more RTOs materially changes the scheduling requirements or cost components of transmission service associated with the delivery of Contract Energy after the Delivery Point as provided under this Agreement (including, but not limited to, costs associated with congestion, re-dispatch and marginal transmission losses), Purchaser shall bear responsibility for all such costs after the Delivery Point.

9.2 **Environmental Attributes.** To the extent future State or Federal legislation or regulations impose costs on emissions of carbon dioxide from fossil-fueled generation (regardless of whether either Party has fossil-fueled generation in its resource portfolio) during the term of this Agreement, Purchaser agrees to pay Seller one-half of the costs associated with the cost of

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carbon dioxide emissions from an equivalent amount of Contract Energy deemed to have been generated from a gas-fired combined cycle generating facility. Prior to such legislation or regulations becoming effective, the Parties shall engage in good-faith negotiations to amend this Agreement to effectuate the intention that Purchaser shall bear 50% of the cost of such legislation or regulation as if such Contract Energy had been generated by gas-fired combined cycle technology generation, and that such hypothetical costs shall be paid to Seller. If Seller and Purchaser are unable to reach an agreement regarding an amendment to this Agreement, the Parties shall resolve such dispute in accordance with the dispute resolution procedures in Article 16 to effect the foregoing intent. To the extent State or Federal legislation or regulations currently provide or in the future establish an Environmental Attribute that confers a financial benefit on energy produced by the Catawba Nuclear Station, Purchaser shall receive its Proportionate Share of the financial benefit, per Section 4.1.3.

**ARTICLE 10
FORCE MAJEURE**

10.1 Force Majeure Notice and Obligations. The existence of Force Majeure, which prevents a Party (the “Non-Performing Party”) from performing or from timely performing an obligation set forth in this Agreement, shall excuse the Non-Performing Party’s delay in performing, or failure to perform, such obligations, subject to any express limitations on such excuse set forth in this Article 10. In the event a Force Majeure causes the Non-Performing Party to delay performance or fail to perform an obligation under this Agreement:

- 10.1.1 the Non-Performing Party shall give the other Party written notice and full details as soon as practicable after learning of the Force Majeure;
- 10.1.2 the Non-Performing Party shall use reasonable dispatch to remedy its inability to perform (except that this provision shall not impose a requirement on either Party to deliver or receive Contract Energy at a delivery point other than a Delivery Point), and, if Seller is the Non-Performing Party, Seller shall use reasonable efforts to provide Contract Energy from the Catawba Project at the Delivery Point; and
- 10.1.3 when the Non-Performing Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect.

10.2 During the suspension of performance due to or resulting from a Force Majeure declared by Seller based on a claim of Force Majeure declared by the Operator, Purchaser shall continue to make all payments due to Seller pursuant to Article 8 during the Force Majeure event, regardless of the amount of Contract Energy delivered, for so long as and to the extent Seller is

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required to make payments to the Operator, provided that Seller takes all reasonable steps to contest any claim of Force Majeure by the Operator and enforces all rights it may have with claims of Force Majeure against the Operator.

10.3 During the suspension of performance due to or resulting from a Force Majeure declared by Purchaser, Purchaser shall continue to make all payments due to Seller pursuant to Article 8 during the Force Majeure event, regardless of the amount of Contract Energy delivered, for so long as and to the extent Seller is required to make payments to the Operator.

ARTICLE 11
EVENTS OF DEFAULT; SECURITY REQUIREMENT AND TERMINATION

11.1 Events of Default. An Event of Default shall be deemed to have occurred with respect to a Party upon the occurrence and during the continuance of any of the following events:

- 11.1.1 The Bankruptcy of a Party;
- 11.1.2 A Party fails to pay any invoiced amount when due under this Agreement within five (5) Business Days after receiving written notice of such failure;
- 11.1.3 A failure to comply with the obligations of Section 11.3 below identifying requirements in the event that either Party experiences a Material Adverse Change;
- 11.1.4 Except for the events described in Sections 11.1.2 and 11.1.3, above, a Party's unexcused failure to perform or observe any of its material obligations or covenants hereunder or material breach of this Agreement and such failure or material breach is not remedied within thirty (30) days following receipt of written notice from the other Party demanding cure of such failure or material breach;
- 11.1.5 Any representation or warranty made by a Party herein or in any document or certificate furnished by a Party hereunder shall have been false when made and such false representation or warranty has a material and adverse effect on the other Party and, if capable of being cured, such false representation or warranty is not cured within thirty (30) days after written notice thereof from the other Party; or
- 11.1.6 A Party disaffirms, disclaims, repudiates or rejects, or challenges the validity of this Agreement, in whole or in part.

11.2 Remedies; Notice of Intent to Terminate. Upon the occurrence and during the continuation of any Event of Default, the Party not in default (the "Non-Defaulting Party") shall

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have the right to pursue all remedies available at law or in equity, suspend its performance under this Agreement to the extent of the Event of Default and/or to deliver a notice of intent to terminate (“Notice of Intent to Terminate”) this Agreement to the Party in default (“Defaulting Party”). Any Notice of Intent to Terminate shall specify the Event of Default giving rise to such Notice of Intent to Terminate. Following the giving of a Notice of Intent to Terminate, the Parties shall negotiate, pursuant to the provisions of Article 16 hereof, a remedy for the Event of Default, following which negotiation, unless the Parties shall have otherwise mutually agreed on a remedy, the Non-Defaulting Party may terminate this Agreement by giving written notice thereof to the Defaulting Party, whereupon this Agreement shall terminate immediately.

11.3 Security Requirement. In the event that Purchaser experiences a Material Adverse Change, Purchaser shall deliver Eligible Collateral to Seller within seven (7) Business Days of the occurrence of the Material Adverse Change in addition to Purchaser’s other payment obligations under this Agreement. Beginning January 1, 2032, in the event that Seller experiences a Material Adverse Change, Seller shall deliver Eligible Collateral to Purchaser within seven (7) Business Days of the occurrence of the Material Adverse Change in addition to Seller’s other payment obligations under this Agreement. Eligible Collateral shall be in an amount equal to the sum of the total charges under this Agreement for the most recent four (4) months immediately preceding the occurrence of the Material Adverse Change, rounded up to the nearest \$5 million, adjusted annually during any continuation of the Material Adverse Change. If the Party experiencing a Material Adverse Change elects to provide a Letter of Credit as its Eligible Collateral, it shall bear the costs of such Letter of Credit.

11.3.1. Upon or any time after the occurrence or deemed occurrence and during the continuation of a Material Adverse Change, the Party in receipt of Eligible Collateral may (i) exercise any of the rights and remedies of a secured party with respect to all Eligible Collateral, including any such rights and remedies under law then in effect, and (ii) liquidate and draw on any outstanding Eligible Collateral issued for its benefit (free from any claim or right of any nature whatsoever of the Party experiencing a Material Adverse Change, including any equity or right of purchase or redemption that the Party experiencing a Material Adverse Change may possess) with respect to the obligations of the Party experiencing a Material Adverse Change under this Agreement.

11.3.2. If the Eligible Collateral is in the form of a Letter of Credit, such Letter of Credit shall be maintained, renewed, or replaced until such time as the Material Adverse Change no longer applies; provided that the Party experiencing a Material Adverse Change shall be entitled to reduce the amount available under the Letter of Credit at any time to the extent that such amount exceeds the Eligible Collateral.

11.4 Forward Contract. The Parties intend that this Agreement shall constitute a “forward contract” within the meaning of the United States Bankruptcy Code.

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**ARTICLE 12
WAIVERS**

12.1 Failure by either Party to exercise any of its rights under this Agreement shall not constitute a waiver of such rights. Neither Party shall be deemed to have waived any right resulting from any failure to perform by the other Party unless it has made such waiver specifically in writing, and no such waiver shall operate as a waiver of any future failure to perform whether of a like or different character. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

12.2 EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH, THE PERFORMANCE OR DEFAULT BY A PARTY UNDER THIS AGREEMENT, ANY CREDIT SUPPORT DOCUMENT, OR ANY OTHER AGREEMENT, CONTRACT, CERTIFICATE OR DOCUMENT EXECUTED BY THE PARTIES IN CONNECTION WITH THIS AGREEMENT. Each Party (i) certifies that no representative, agent or attorney of the other Party has represented, expressly or otherwise, that such other Party would seek, in the event of such a suit, action or proceeding, that the foregoing waiver not be enforced and (ii) acknowledges that it and the other Party have been induced to enter into this agreement, by, among other things, the mutual waivers and certifications in this Section.

Each Party acknowledges that it has knowingly negotiated and agreed to this provision, and that, with respect to this provision, there has been equal bargaining power between the Parties. Each Party represents and warrants that consent to this waiver is made knowingly and voluntarily. Each Party agrees that a copy of this waiver may be filed with any court as conclusive proof that the waiver was given voluntarily by each Party.

**ARTICLE 13
REPRESENTATIONS AND WARRANTIES**

- 13.1 Representations and Warranties of Seller. The Seller represents and warrants that:
- (i) it has all corporate and regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
 - (ii) the execution, delivery and performance of this Agreement and any other documentation it is required to deliver under this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents, any contract or other agreement to which it is a

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party or any law, regulation or other requirement applicable to it;

(iii) the individual(s) executing and delivering this Agreement and any other documentation required to be delivered under this Agreement are duly empowered and authorized to do so;

(iv) this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with the terms hereof;

(v) there are no legal proceedings threatened or pending that would be reasonably likely to materially adversely affect its ability to perform this Agreement;

(vi) it has taken all acts necessary for the valid execution, delivery and performance of this Agreement, as required under the Joint Municipal Electric Power and Energy Act, Chapter 159B of the General Statutes of North Carolina (“Seller’s Enabling Act”) and Seller’s ordinances and regulations;

(vii) all persons making up the governing body of Seller are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Seller’s Enabling Act and other applicable law;

(viii) entry into and performance of this Agreement by Seller are for a proper public purpose within the meaning of the Seller’s Enabling Act and all other relevant constitutional, organic or other governing documents and applicable law;

(ix) the term of this Agreement does not extend beyond any applicable limitation imposed by the Seller’s Enabling Act or other relevant constitutional, organic or other governing documents and applicable law;

and

(x) obligations to sell Contract Capacity and Contract Energy to Purchaser do not constitute any kind of indebtedness of Seller or create any kind of lien on, or security interest in, any property or revenues of Seller which, in either case, is proscribed by any provision of any governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

13.2 Representations and Warranties of Purchaser. Purchaser represents and warrants that:

(i) it has all corporate and regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

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(ii) the execution, delivery and performance of this Agreement and any other documentation it is required to deliver under this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents, any contract or other agreement to which it is a party or any law, regulation or other requirement applicable to it;

(iii) the individual(s) executing and delivering this Agreement and any other documentation required to be delivered under this Agreement are duly empowered and authorized to do so;

(iv) this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with the terms hereof;

(v) there are no legal proceedings threatened or pending that would be reasonably likely to materially adversely affect its ability to perform this Agreement;

(vi) it has taken all acts necessary for the valid execution, delivery and performance of this Agreement, as required under Purchaser's articles of incorporation and Purchaser's bylaws and policies;

(vii) all persons making up the governing body of Purchaser are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Purchaser's articles of incorporation, bylaws and other applicable law;

(viii) the term of this Agreement does not extend beyond any applicable limitation imposed by the Purchaser's articles of incorporation or other relevant constitutional, organic or other governing documents and applicable law; and

(ix) obligations to purchase Contract Capacity and Contract Energy from Seller do not constitute any kind of indebtedness of Purchaser or create any kind of lien on, or security interest in, any property or revenues of Purchaser which, in either case, is proscribed by any provision of any governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

13.3 Further Assurances. Each Party agrees that it shall take all reasonable actions necessary to fulfill its obligations under this Agreement. If either Party reasonably determines or is advised that any further instruments or any other things are necessary or desirable to carry out the terms of this Agreement, the other Party shall execute and deliver all such instruments and assurances and do all things reasonably necessary to carry out the terms of this Agreement. Each Party shall provide such documentation, agreements or information as the other Party may reasonably require to carry out its obligations or enforce its rights under this Agreement. Neither Purchaser nor the Seller nor any of its affiliates or subsidiaries will, during the term of this Agreement, take any action, enter into any contracts or otherwise incur any obligations that could

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reasonably be anticipated to materially interfere with or adversely affect its ability to perform its obligations under this Agreement.

13.4 No Partnership. Nothing in this Agreement shall be deemed to create or constitute an association, joint venture, partnership or any other type of entity or relationship between the Parties or to impose a trust of partnership duty, obligation or liability on or with regard to the Parties.

13.5 No Immunity Claim. Each Party warrants and covenants that, with respect to its contractual obligations to the other hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance, or (d) execution or enforcement of any judgment.

13.6 No Amendments to Project Agreements. Seller covenants that it will not amend, waive any rights from or fail to enforce any rights within any of the Project Agreements in a manner that is adverse to Purchaser's rights or obligations under this Agreement without the consent of Purchaser, which may not be unreasonably withheld. Notwithstanding this Section 13.6, Seller shall have the sole and absolute discretion to exercise the right under the Operating and Fuel Agreement to participate in an Uprate Project in accordance with Section 4.4.3.

**ARTICLE 14
LIABILITY OF PARTIES**

14.1 INDEMNITIES.

14.1.1 TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY (THE "INDEMNIFYING PARTY") SHALL FULLY INDEMNIFY AND DEFEND THE OTHER PARTY FROM AND AGAINST ANY CLAIMS ARISING FROM OR OUT OF ANY EVENT, CIRCUMSTANCE, ACT OR INCIDENT FIRST OCCURRING OR EXISTING DURING THE PERIOD WHEN CONTROL AND TITLE TO ENERGY IS VESTED IN SUCH PARTY AS PROVIDED IN SECTION 7.1 AND SHALL FULLY INDEMNIFY AND DEFEND THE OTHER PARTY AND EACH OF THE OTHER PARTY'S SUBSIDIARIES AND AFFILIATES, AND THE MEMBERS, PARTICIPANTS, PRINCIPALS, REPRESENTATIVES, DIRECTORS, COMMISSIONERS, TRUSTEES, OFFICERS, AGENTS, EMPLOYEES, AND THE SUCCESSORS AND ASSIGNS OF EACH OF THEM (THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, COSTS, DAMAGES, INJURIES, LIABILITIES, CLAIMS, DEMANDS, PENALTIES AND INTEREST, INCLUDING

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REASONABLE ATTORNEYS' FEES, RESULTING FROM THIRD PARTY CLAIMS DIRECTLY OR INDIRECTLY RELATED TO THIS AGREEMENT, TO THE EXTENT CAUSED OR CONTRIBUTED TO BY THE WILLFUL MISCONDUCT, NEGLIGENCE OR STRICT LIABILITY OF THE INDEMNIFYING PARTY OR ITS SUBSIDIARIES OR AFFILIATES OR ANY OF THE OFFICERS, MEMBERS, PARTICIPANTS, PRINCIPALS, DIRECTORS, COMMISSIONERS, TRUSTEES, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUCCESSORS OR ASSIGNS OF ANY OF THEM, OR BY BREACH BY THE INDEMNIFYING PARTY OF THIS AGREEMENT.

14.1.2 IF ANY INDEMNIFIED PARTY INTENDS TO SEEK INDEMNIFICATION UNDER THIS SECTION 14.1 FROM AN INDEMNIFYING PARTY WITH RESPECT TO ANY ACTION OR CLAIM, THE INDEMNIFIED PARTY SHALL GIVE THE INDEMNIFYING PARTY WRITTEN NOTICE OF SUCH CLAIM OR ACTION PROMPTLY FOLLOWING THE RECEIPT OF ACTUAL KNOWLEDGE OR INFORMATION BY THE INDEMNIFIED PARTY OF A POSSIBLE CLAIM OR OF THE COMMENCEMENT OF A CLAIM OR ACTION. THE INDEMNIFYING PARTY SHALL BE RELIEVED OF LIABILITY UNDER THIS SECTION FOR ANY CLAIM OR ACTION FOR WHICH SUCH NOTICE IS NOT PROVIDED TO THE EXTENT THAT THE FAILURE TO GIVE SUCH WRITTEN NOTICE MATERIALLY PREJUDICES THE INDEMNIFYING PARTY IN ITS DEFENSE OF THE CLAIM OR ACTION.

14.1.3 THE INDEMNIFYING PARTY SHALL HAVE THE RIGHT TO ASSUME THE DEFENSE OF ANY CLAIM OR ACTION, AT ITS SOLE COST AND EXPENSE, WITH COUNSEL DESIGNATED BY THE INDEMNIFYING PARTY; PROVIDED THAT IF THE DEFENDANTS IN ANY SUCH ACTION INCLUDE BOTH THE INDEMNIFIED PARTY AND THE INDEMNIFYING PARTY, AND THE INDEMNIFIED PARTY SHALL HAVE REASONABLY CONCLUDED THAT THERE MAY BE LEGAL DEFENSES AVAILABLE TO IT WHICH ARE DIFFERENT FROM OR ADDITIONAL TO THOSE AVAILABLE TO THE INDEMNIFYING PARTY, THE INDEMNIFIED PARTY SHALL HAVE THE RIGHT TO SELECT SEPARATE COUNSEL, AT THE INDEMNIFYING PARTY'S EXPENSE, TO ASSERT SUCH LEGAL DEFENSES AND TO OTHERWISE PARTICIPATE IN THE DEFENSE OF SUCH ACTION ON BEHALF OF SUCH INDEMNIFIED PARTY.

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14.1.4 EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN, NO INDEMNIFIED PARTY SHALL SETTLE ANY CLAIM OR ACTION WITH RESPECT TO WHICH IT HAS SOUGHT OR INTENDS TO SEEK INDEMNIFICATION PURSUANT TO THIS AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE INDEMNIFYING PARTY, WHICH CONSENT MAY NOT BE WITHHELD UNREASONABLY. SHOULD ANY INDEMNIFIED PARTY BE ENTITLED TO INDEMNIFICATION UNDER THIS SECTION 14.1 AS A RESULT OF A CLAIM OR ACTION BY A THIRD PARTY, AND SHOULD THE INDEMNIFYING PARTY FAIL TO ASSUME THE DEFENSE OF SUCH CLAIM OR ACTION, THE INDEMNIFIED PARTY MAY, AT THE EXPENSE OF THE INDEMNIFYING PARTY, CONTEST (OR, WITH OR WITHOUT THE PRIOR CONSENT OF THE INDEMNIFYING PARTY, SETTLE) SUCH CLAIM OR ACTION. EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN, NO INDEMNIFYING PARTY SHALL SETTLE ANY CLAIM OR ACTION WITH RESPECT TO WHICH IT MAY BE LIABLE TO PROVIDE INDEMNIFICATION PURSUANT TO THIS AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE INDEMNIFIED PARTY; PROVIDED THAT IF THE INDEMNIFYING PARTY HAS REACHED A BONA FIDE AND COMMERCIALY REASONABLE SETTLEMENT AGREEMENT WITH THE PLAINTIFF(S) IN ANY SUCH ACTION AND SUCH SETTLEMENT AGREEMENT FULLY RELEASES THE INDEMNIFIED PARTY AND DOES NOT REQUIRE ANY PAYMENT FROM, OR IMPOSE ANY RESTRICTION ON, THE INDEMNIFIED PARTY AND THERE IS NO ADMISSION OR FINDING OF LIABILITY OR FAULT ON THE PART OF THE INDEMNIFIED PARTY, AND THE INDEMNIFIED PARTY DOES NOT CONSENT TO SUCH SETTLEMENT AGREEMENT, THE INDEMNIFIED PARTY'S MAXIMUM RECOVERY WITH RESPECT TO THE CLAIM, OR PORTION THEREOF THAT IS THE SUBJECT OF SUCH SETTLEMENT AGREEMENT, SHALL BE LIMITED TO THE AMOUNT SPECIFIED IN THE SETTLEMENT AGREEMENT, PLUS THE INDEMNIFIED PARTY'S REASONABLE ATTORNEY FEES INCURRED PRIOR TO THE DATE OF SUCH SETTLEMENT AGREEMENT.

14.2 LIMITATION ON DAMAGES. NEITHER PARTY NOR ITS SUBSIDIARIES OR AFFILIATES NOR THE OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, PARTICIPANTS, MEMBERS, PRINCIPALS, DIRECTORS, COMMISSIONERS, TRUSTEES, OR THE SUCCESSORS OR ASSIGNS OF ANY OF THEM SHALL IN ANY EVENT BE LIABLE TO THE OTHER PARTY OR ITS SUBSIDIARIES OR AFFILIATES OR THE OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, PARTICIPANTS, MEMBERS,

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PRINCIPALS DIRECTORS, TRUSTEES, OR COMMISSIONERS OF ANY OF THEM FOR CLAIMS FOR INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR INDIRECT DAMAGES OF ANY NATURE, ARISING AT ANY TIME, FROM ANY CAUSE WHATSOEVER, WHETHER ARISING IN TORT, CONTRACT, WARRANTY, STRICT LIABILITY, BY OPERATION OF LAW OR OTHERWISE, CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT; PROVIDED, HOWEVER THAT THIS SECTION 14.2 IS NOT INTENDED, NOR SHALL IT BE CONSTRUED, TO LIMIT OR ELIMINATE A PARTY'S OBLIGATION TO PAY TERMINATION PAYMENTS OR MAKE ANY OTHER PAYMENTS EXPRESSLY CONTEMPLATED HEREIN, EVEN IF IT MAY BE POSSIBLE TO CHARACTERIZE SUCH TERMINATION PAYMENTS OR OTHER PAYMENTS AS INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR INDIRECT DAMAGES.

14.3 Insurance. A Party shall be solely responsible for and shall bear all the costs of claims by its own employees, contractors or agents arising under and covered by any worker's compensation law. A Party shall furnish, at its sole expense, such insurance coverage and such evidence thereof, or evidence of self-insurance, as is reasonably necessary to meet its obligations under the Agreement.

ARTICLE 15
ASSIGNMENT AND ADDITIONAL SALES OF CONTRACT CAPACITY AND
CONTRACT ENERGY

15.1 Agreement Binding. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their successors and permitted assigns.

15.2 Permitted Assignment. This Agreement shall not be assignable by either Party without the prior written consent of the other, except that this Agreement (a) may be assigned by Seller or Purchaser without the consent of the other Party, (but with notice to Purchaser or Seller, as applicable) to any lender as collateral from time to time providing financing with respect to all or any portion of the Catawba Project or either Party's interest therein, and (b) shall be assigned by Seller in the event of a sale by Seller of all or a substantial portion of Seller's interest in the Catawba Project; provided that such transferee: (i) has an Investment Grade Credit Rating; (ii) executes an assumption agreement, in form and substance reasonably satisfactory to Purchaser, pursuant to which such assignee shall assume all the obligations of Seller under this Agreement and agrees to be bound by all the terms and conditions of this Agreement, and (iii) is able (including through experience reasonably satisfactory to Purchaser in providing similar service) to fully perform all of the obligations of Seller in the manner contemplated by the provisions hereof without (A) Purchaser being subject to any additional regulation, or (B) transferee being subject to additional regulation that adversely affects any of Purchaser's rights or obligations under this Agreement. No assignment or transfer of this Agreement by a Party shall be permitted (i) during any period in which an Event of Default of such Party shall have occurred and be continuing and not cured, unless the other Party shall agree, or (ii) to an entity that has suffered a Material Adverse

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Change. No assignment of this Agreement shall relieve the assigning Party of any of its obligations under this Agreement, except that the assignor shall be released from its obligations under this Agreement at such time as all future obligations of the assignor hereunder shall have been assumed by the assignee as a matter of law or in a written agreement delivered to the other Party. Any assignment that does not comply with the provisions of this Article 15 shall be null and void ab initio.

15.3. Additional Sales of Capacity and Energy.

15.3.1 During the term of this Agreement, if Seller desires to sell additional amounts of Capacity and Energy from its ownership interest in the Catawba Project, Seller shall give notice to Purchaser in writing of its intent (the “Additional Sale Notice”). The Additional Sale Notice shall specify the process by which Seller will entertain bids or offers for such additional Capacity and Energy (the “Bidding Process”) and the qualifications for any potential purchaser of such Capacity and Energy.

15.3.2 Following Purchaser’s receipt of the Additional Sale Notice, if Purchaser satisfies the qualifications identified in the Additional Sale Notice, Seller shall ensure that Purchaser is afforded the opportunity to participate in the Bidding Process.

15.3.3 If Purchaser is selected in the Bidding Process, and Seller and Purchaser reach an agreement regarding the sale of additional amounts of Capacity and Energy identified in the Additional Sale Notice, they will engage in good-faith negotiations to amend this Agreement or to enter into a separate agreement to effectuate the sale of such additional amounts of Capacity and Energy.

15.3.4 If Purchaser is selected in the Bidding Process but Seller and Purchaser are unable to reach an agreement regarding the sale of such additional amounts of Capacity and Energy, Seller shall be under no obligation to amend this Agreement or enter into a separate agreement with Purchaser for the sale of additional amounts of Capacity and Energy.

15.3.5 If Purchaser is not selected in the Bidding Process, Seller shall be under no obligation to amend this Agreement or enter into a separate agreement with Purchaser for the sale of additional amounts of Capacity and Energy.

**ARTICLE 16
DISPUTE RESOLUTION**

The Parties shall engage in good-faith negotiations to attempt to resolve any dispute, controversy or claim arising out of, under, or relating to this Agreement (a “Dispute”), unless otherwise mutually agreed to by the Parties. In the event that the Parties are unsuccessful in

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resolving a Dispute through such negotiations, the Parties shall proceed immediately to binding arbitration concerning the Dispute as discussed below.

16.1 Good-Faith Negotiations.

16.1.1 The Parties shall attempt to agree on a mutually agreeable resolution of the Dispute. A Party shall not be required as part of these negotiations to provide any information which is confidential or proprietary in nature unless it is satisfied in its discretion that the other Party will maintain the confidentiality of and will not misuse such information or any information subject to attorney-client or other privilege under applicable law regarding discovery and production of documents.

16.1.2 The negotiation process shall include at least two meetings to discuss any Dispute. The Parties will schedule the first meeting to take place within fifteen (15) days after either Party has received notice from the other of the desire to commence formal negotiations concerning the Dispute. Unless otherwise mutually agreed, the second meeting shall take place no more than ten (10) days after the first meeting. If the Parties cannot reach an agreement thirty (30) days after either Party received notice under this provision, the Parties shall proceed to binding arbitration.

16.2 Arbitration.

16.2.1 Arbitration initiated under this Agreement shall be conducted before a three-member arbitration panel. Within ten (10) days of the initiation of the arbitration proceeding, each Party shall choose one arbitrator who shall sit on the arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. The arbitrators shall be knowledgeable in electric utility matters and shall not have any current or past substantial business or financial relationships with any party to the arbitration. The arbitrators shall provide each of the Parties an opportunity to be heard and, unless otherwise agreed by the Parties, shall convene a hearing or other fact-finding conference for this purpose in Raleigh, North Carolina. Such hearing or conference shall be convened within ninety days (90) days after the appointment of the third arbitrator. Except as otherwise provided herein, the arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

16.2.2 Unless otherwise agreed by the Parties, the arbitrators shall render a decision within ninety (90) days of the arbitration hearing or fact-finding conference and shall notify the Parties in writing of such decision and the

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reasons therefor. The arbitrators shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrators 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 arbitrators may be appealed solely on the grounds that the conduct of the arbitrators, or the decision itself, violated the standards set forth in the Federal Arbitration Act.

16.2.3 Each Party shall be responsible for (1) its own costs incurred during the arbitration process, (2) the cost of the arbitrator chosen by the Party to sit on the three-member panel, and (3) one-half of the cost of the third arbitrator chosen.

16.3 Confidentiality and Non-Admissibility of Statements Made in, and Evidence Specifically Prepared for, Good-Faith Negotiations. Each Party hereby agrees that all statements made in the course of good-faith negotiations, as contemplated in Section 16.1, shall be confidential and shall not be disclosed to or shared with any third parties (other than a person whose presence is necessary to facilitate the negotiation process). Each Party agrees and acknowledges that no statements made in or evidence specifically prepared for good-faith negotiations under Section 16.1 shall be admissible for any purpose in any subsequent arbitration.

**ARTICLE 17
AMENDMENT**

17.1 This Agreement shall not be amended, modified or supplemented except by written agreement making specific reference hereto executed by both Parties.

**ARTICLE 18
NOTICES**

Other than telephonic notices required or permitted under Section 5.1, any notice required or permitted to be given hereunder shall be in writing and shall be (i) personally delivered, (ii) transmitted by postage prepaid registered mail, (iii) transmitted by a recognized overnight courier service, (iv) transmitted by facsimile, or (v) transmitted by email to the receiving Party as follows, as elected by the Party giving such notice:

18.1 In the case of Purchaser:

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Central Electric Power Cooperative, Inc.
20 Cooperative Way
Columbia, SC 29210
Attention: Chief Executive Officer
Tel: 803-779-4975
Fax: 803-561-9366
Email: rhochstetler@cepci.org

With a copy to:

Alexander G. Hall
Tiencken Law Firm, LLC
234 Seven Farms Dr. Ste 114
Daniel Island, SC 20492
Tel: 843-377-8415
Fax: 843-377-8419
Email: ahall@tienckenlaw.com

18.2 In the case of Seller:

North Carolina Municipal Power Agency Number 1
1427 Meadow Wood Boulevard
Raleigh, NC 27604
Attention: Chief Operating Officer
Tel: 919-760-6312
Fax: 919-760-6050
Email: mschull@electricities.org

With a copy to:

Chief Legal Officer
Tel: 919-760-6337
Fax: 919-760-6050
Email: jmorriso@electricities.org

All notices and other communications shall be deemed to have been duly given on (i) the date of receipt if delivered personally, (ii) five (5) days after the date of posting if transmitted by mail, (iii) the Business Day following delivery to the courier if transmitted by overnight courier service; or (iv) the date of transmission with confirmation if transmitted by facsimile or email, whichever shall first occur. Any Party may change its address for purposes hereof by notice to the other Party.

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**ARTICLE 19
APPLICABLE LAW**

19.1 This Agreement, including any arbitration pursuant to Section 16.2, shall be governed by, and construed in accordance with, the laws of the State of North Carolina, exclusive of any conflict of laws provisions thereof that would apply the laws of another jurisdiction. In the event any action or proceeding is brought by either Party to appeal an arbitration decision made pursuant to Section 16.2.2 or to enforce an arbitration award that has been awarded pursuant to Section 16.2, the Parties hereby submit to the jurisdiction of, and agree that venue for actions hereunder shall be in, the U.S. District Court for the Eastern District of North Carolina, if such U.S. District Court has subject matter jurisdiction, or, if such U.S. District Court does not have subject matter jurisdiction, the Superior Court of the State of North Carolina sitting in Wake County, North Carolina, and the Parties hereby waive any objection to venue in such courts and any objection to any action or proceeding on the basis of forum non conveniens.

**ARTICLE 20
SEVERABILITY**

20.1 The invalidity or unenforceability of any provision or portion of this Agreement will not affect the validity of the remainder of this Agreement. If any provision of this Agreement is determined to be invalid or unenforceable, the Parties will negotiate in good faith to agree upon substitute provisions to carry out the purpose and intent of the invalid or unenforceable provision. If the economic or legal substance of the transactions contemplated hereby is affected in any manner materially adverse to any Party as a result thereof, the Parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the Parties.

**ARTICLE 21
ENTIRE AGREEMENT**

21.1 This Agreement contains the complete agreement of the Parties hereto with respect to the matters contained herein and supersedes all other agreements, understandings and negotiations, whether written or oral, with respect to the matters contained herein.

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ARTICLE 22
NO THIRD-PARTY BENEFICIARIES

22.1 This Agreement is intended to be solely for the benefit of Purchaser and Seller and their respective successors and permitted assigns and is not intended to and shall not confer any rights or benefits on any Person not a signatory hereto.

ARTICLE 23
COUNTERPARTS

23.1 This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute only one legal instrument.

ARTICLE 24
INFORMATION AND CONFIDENTIALITY

24.1 Confidentiality. Except as otherwise required by law or as reasonably required by Purchaser to arrange for transmission, each Party hereto agrees not to disclose the terms and conditions of this Agreement during the Term, and to keep such terms and conditions confidential for a period of two (2) years after this Agreement terminates; provided, however, that each Party shall be permitted to disclose such information to its respective representatives, including, but not limited to, its employees, advisors, consultants, lenders, members and governing board, on a need to know basis. Each Party shall take all reasonably necessary steps to direct its representatives privy to this Agreement or the proposed or actual terms of any transaction hereunder to maintain its obligation of nondisclosure and confidentiality. If and when Purchaser desires or is required to make a disclosure in order to arrange for transmission regarding this Agreement or any transaction hereunder, Purchaser will first obtain the written consent of Seller, which may not be unreasonably withheld, conditioned, or delayed, and give Seller an opportunity to review any such disclosure in advance of such disclosure. If and when a Party must make a disclosure required by law or reasonably required by Purchaser to arrange for transmission, the disclosing Party shall give Seller a reasonable opportunity to review any such disclosure at least seven (7) days in advance of such disclosure unless otherwise required by law. Nothing contained in this Agreement shall be interpreted to require Seller to act in any manner inconsistent with its obligations under the North Carolina Public Records Law, Chapter 132 of the General Statutes of North Carolina (the “Public Records Law”) and Purchaser acknowledges and understands that, once executed, this Agreement automatically becomes a public record under the Public Records Law.

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**ARTICLE 25
PUBLIC STATEMENTS**

25.1 Seller and Purchaser shall consult with each other, and neither Party shall issue a press release or make a statement intended for release to the general public, with respect to this Agreement without the consent of the other Party, which consent shall not be unreasonably withheld, unless the Party desiring to make such statement or press release is advised by legal counsel that a statement or press release is required by applicable Law (including information provided pursuant to a request for public information under the Public Records Law); provided, however, that in this event the Party making the public statement or press release shall notify the other Party in advance of such statement or press release and allow the other Party reasonable time to comment on such statement or press release.

**ARTICLE 26
TAXES AND COSTS**

26.1 Purchaser shall pay its Proportionate Share of all sales, use, personal property and other taxes of every kind, if any, that are not currently levied and are hereafter levied on (i) the purchase, sale or use of fuel consumed by the Catawba Project to provide Contract Capacity and Contract Energy in accordance with this Agreement; (ii) the purchase, sale or use of Contract Capacity and Contract Energy under this Agreement; or (iii) an ownership interest in the Catawba Project or in Contract Capacity or Contract Energy associated with the Catawba Project. Seller shall promptly notify Purchaser of any taxes coming within the provisions of this Article 26. In the event Seller, on behalf of Purchaser, after notifying Purchaser of such taxes, pays any taxes that are the responsibility of Purchaser under this Article 26, unless the procedures for the payment of its Proportionate Share of such taxes to Seller are not otherwise described in this Agreement, the amount so paid shall be added to the next monthly invoice submitted by Seller to Purchaser pursuant to Article 8 of this Agreement, and Purchaser shall pay such amount in accordance with the provisions of Article 8 of this Agreement. Upon the reasonable request of Purchaser, Seller agrees to (i) provide documents related to taxes or assessments to be paid by Purchaser under this Agreement, and (ii) cooperate in tax contests or proceedings brought by Purchaser at Purchaser's expense. Each Party will be responsible for and bear all of its respective costs and expenses (including any and all expenses of its representatives) incurred at any time in connection with pursuing or consummating the negotiation and execution of this Agreement.

**ARTICLE 27
TERMINATION AND SURVIVAL OBLIGATIONS**

27.1. Termination of this Agreement, including a termination of this Agreement pursuant to Section 11.2 by either Party as the Non-Defaulting Party, shall not discharge either Party from

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any obligation it owes to the other Party under this Agreement by reason of any transaction, loss, cost, damage, expense or liability occurring, accruing or arising prior to such termination. It is the intent of the Parties that any such obligation owed (whether known or unknown as of the termination of this Agreement) will survive the termination of this Agreement in favor of the Party to which such obligation is owed. The Parties also intend that the provisions of Articles 8, 10, 11, 13, 15, 17, 18, 23, 24, 26, and 27 shall remain in full force and effect, in each case, with respect to the period during the term of this Agreement, and that any specific survivability provisions set forth in any other Article or Section of this Agreement be given full force and effect.

27.2 Following termination of this Agreement, Seller may invoice Purchaser for, and Purchaser will pay Seller (i) any previously unbilled costs specified in Section 4.2 and (ii) any previously unbilled taxes paid by Seller on behalf of Purchaser as described in Article 26, in each case only to the extent such costs relate exclusively to the period prior to the termination of this Agreement.

27.3 Following termination of this Agreement, Seller shall determine whether the decommissioning trust funds available to Seller to satisfy its decommissioning cost liability under the Project Agreements are sufficient to fund the decommissioning cost liability of the Seller under the Project Agreements. To the extent the decommissioning trust funds are determined to be insufficient to fund the Seller's decommissioning cost liability, Seller shall invoice Purchaser for the Purchaser's Ratio, as adjusted for the length of the term that Purchaser received Contract Capacity and Contract Energy from the Catawba Project, of the shortfall. To the extent the decommissioning trust funds are determined to be in excess of the Seller's decommissioning cost liability, Seller shall credit Purchaser for the Purchaser's Ratio, as adjusted for the length of the term that Purchaser received Contract Capacity and Contract Energy from the Catawba Project, of the excess funds.

**ARTICLE 28
FURTHER ASSURANCES**

28.1. From time to time, each of the Parties hereto will execute and deliver such further documents and will take such additional actions as Seller, on the one hand, and Purchaser, on the other hand, may reasonably request of the other in order to effectuate the purposes and intent of this Agreement and to carry out the terms hereof.

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IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorized representatives as of the day and year first written above.

Central Electric Power Cooperative, Inc.

By: _____

Name: Robert C. Hochstetler
Title: President and CEO

Date: _____

Attest:

Name: _____

Title: _____

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North Carolina Municipal Power Agency Number 1

By: _____

Name: Roy L. Jones
Title: Chief Executive Officer

Date: _____

Attest:

Name: _____

Title: _____

Exhibit 1

Power Purchase Agreement between Central Electric Power Cooperative and North Carolina Municipal Power Agency No. 1

Form of Monthly Invoice - Summary Charges for Contract Capacity and Contract Energy

| <u>Line</u> | <u>Description</u> | <u>Month of</u> | <u>Reference</u> |
|-------------|--|------------------------|---|
| 1 | Charge for Contract Capacity | \$ 4,677,000.00 | Exhibit 1.1, Line 15 |
| 2 | Charge for Capital Additions | \$ - | Exhibit 1.2, Line 9 |
| 3 | Charge for Catawba Project Operating Costs | \$ - | Exhibit 1.3, Line 20 |
| 4 | Imbalance Charge / (Credit) | \$ - | Based on Seller's Generation Imbalance (Schedule 13) charges/credits. |
| 5 | South Carolina Excise Tax | \$ - | Seller's excise tax obligation associated with Contract Energy sales. |
| 6 | Less: Remarketing Net Revenues | \$ - | Pursuant to Section 4.5 of the Agreement |
| 7 | Total Monthly Charges | \$ 4,677,000.00 | Sum of Lines 1 through 5, less Line 6 |

Exhibit 1.1

Power Purchase Agreement between Central Electric Power Cooperative and North Carolina Municipal Power Agency No. 1

Form of Monthly Invoice - Capacity Charge

| <u>Line</u> | <u>Description</u> | <u>Units</u> | <u>Month of</u> | <u>Reference</u> |
|--|--|--------------|-----------------|--|
| 1 | Contract Capacity | kW | 150,000 | Section 4.1 of the Agreement |
| CHARGE FOR CONTRACT CAPACITY | | | | |
| 2 | Existing Plant Value | \$/kW | \$ 2,123 | Per agreement of the Parties (i.e., negotiated plant value). |
| Existing Decommissioning Fund Buy-in: | | | | |
| 3 | Existing Decommissioning Fund Balance @ 12/31/23 [1] | | \$ 483,879,000 | Per Seller's Audited financials. |
| 4 | Years of Purchaser's Use (Initial Term) | | 20 | 2024 through 2043 |
| 5 | Total Years of Catawba Operating Life | | 58 | 1986 through 2043 |
| 6 | Purchaser's Use as a Percent of Operating Life | | 34.48% | Line 4 / Line 5 |
| 7 | Existing Funds Allocated to Purchaser's Use | | \$ 166,854,828 | |
| 8 | Existing Funds Allocated to Purchaser's Use | \$/kW | 201 | Line 7 / Seller's Catawba Project Retained Capacity (831,461 kW) |
| 9 | Total Existing Plant Asset Rate | \$/kW | \$ 2,324 | Line 2 + Line 8 |
| 10 | Existing Plant Value - Basis for Levelization | | \$ 348,551,501 | Line 1 x Line 9 |
| Levelized Rate for Existing Plant (2024-2031): | | | | |
| 11 | Annual Carrying Cost Rate | | 6.0% | |
| 12 | Years of Initial Term | | 8 | 2024 through 2031 |
| 13 | Existing Plant Capacity Rate | \$/kW-yr | \$ 374.20 | Excel "PMT" function (rate=Line 11, nper =Line 12, pv=Line 10) |
| 14 | Monthly Capacity Rate | \$/kW-mo | \$ 31.18 | Line 13 / 12 months (rounded to the nearest two decimals) |
| 15 | Monthly Capacity Charge | | \$ 4,677,000.00 | Line 1 x Line 14 |

NOTE:

[1] Actual balance to be determined after audit is performed in early 2024, along with true-up to the Capacity Charge.

Exhibit 1.2

Power Purchase Agreement between Central Electric Power Cooperative and North Carolina Municipal Power Agency No. 1

Form of Monthly Invoice - Charge for Capital Additions

| <u>Line</u> | <u>Description</u> | <u>Units</u> | <u>Month of</u> | <u>Reference [2]</u> |
|--|--|--------------|-----------------|--|
| 1 | Seller's Catawba Project Retained Capacity | kW | 831,461 | Pursuant to Article 6 of the Interconnection Agreement as of the Effective Date of the Agreement |
| 2 | Contract Capacity | kW | 150,000 | Section 4.1 of the Agreement |
| 3 | Purchaser's Ratio | % | 18.0% | Line 2 / Line 1 (Rounded to the nearest three decimals) |
| CHARGE FOR CAPITAL ADDITIONS [1] | | | | |
| Catawba Direct and Indirect Capital Additions and Fees | | | | |
| 4 | Capital Additions Monthly Advance Due | | \$ - | Operating Agreement Report OM, line 30 |
| 5 | Capital Additions Advance Adjustment | | \$ - | Operating Agreement Report OM.100, line 40 |
| 6 | Adjustments for Errors, Additions, and Omissions | | \$ - | Operating Agreement Report OM.180 (related to capital additions) |
| 7 | Interest on Adjustments | | \$ - | Operating Agreement Report OM.100, line 100 (related to capital additions) |
| 8 | Total Catawba Direct and Indirect Capital Additions and Fees | | \$ - | Sum of Lines 4 through 7 |
| 9 | Monthly Charge for Capital Additions | | \$ - | Line 3 x Line 8 |

NOTES:

[1] Charge for Capital Additions are the costs of Catawba Project capital additions and associated fees, billed by Duke pursuant to Sections 5.1 and 5.7 of the Operating Agreement as amended, respectively.

[2] References to specific lines of the Operating Agreement Report OM are reflective of the form of this report provided by Duke as of the Effective Date of the Agreement, and the references may be updated if this report from Duke takes a different form in the future.

Exhibit 1.3

Power Purchase Agreement between Central Electric Power Cooperative and North Carolina Municipal Power Agency No. 1

Form of Monthly Invoice - Charge for Catawba Project Operating Costs

| Line | Description | Units | Month of | Reference [4] |
|---|--|-------|----------|--|
| 1 | Seller's Catawba Project Retained Capacity | kW | 831,461 | Pursuant to Article 6 of the Interconnection Agreement as of the Effective Date of the Agreement |
| 2 | Contract Capacity | kW | 150,000 | Section 4.1 of the Agreement |
| 3 | Purchaser's Ratio | % | 18.0% | Line 2 / Line 1 (Rounded to the nearest three decimals) |
| CHARGE FOR CATAWBA PROJECT OPERATING COSTS | | | | |
| Catawba Direct and Indirect O&M and Operating Fees: | | | | |
| 4 | O&M Monthly Advance Due | \$ | - | Operating Agreement Report OM, line 10 |
| 5 | O&M Monthly Advance Adjustment | \$ | - | Operating Agreement Report OM, 100, line 20 |
| 6 | Operating Inventory Monthly Advance Due | \$ | - | Operating Agreement Report OM, line 40 |
| 7 | Operating Inventory Monthly Advance Adjustment | \$ | - | Operating Agreement Report OM, 100, line 50 |
| 8 | Adjustments for Errors, Additions, and Omissions | \$ | - | Operating Agreement Report OM, 180 (related to O&M) |
| 9 | Interest on Adjustments | \$ | - | Operating Agreement Report OM, 100, line 100 (related to O&M) |
| 10 | Catawba Special Group and Projects Monthly Advance Due | \$ | - | Operating Agreement Report OM, line 60 |
| 11 | Total Catawba Direct and Indirect O&M and Operating Fees | \$ | - | Sum of Lines 4 through 10 |
| 12 | Catawba Project Related A&G [1] | \$ | - | Seller's A&G expenses allocated to the Catawba Project for given month |
| 13 | Property Taxes | \$ | - | Seller's annual property taxes associated with its Catawba Project divided by 12 months |
| 14 | Decommissioning Cost Accrual [2] | \$ | - | Seller's monthly accrual for nuclear decommissioning |
| <u>Contract Energy Related Charges:</u> | | | | |
| 15 | Catawba Nuclear Fuel Amortization Expense | \$ | - | Seller's amortized nuclear fuel expense booked to Account 518.1 |
| 16 | Catawba/McGuire Replacement Energy Charge | \$ | - | Pursuant to Article 8 of the Interconnection Agreement |
| 17 | McGuire Reliability Exchange Capacity Charge | \$ | - | Pursuant to Section 5.3 of the Interconnection Agreement |
| 18 | McGuire Reliability Exchange Net Energy Charge [3] | \$ | - | Pursuant to Articles 8 and 10 of the Interconnection Agreement |
| 19 | Total Seller's Monthly Catawba Project Operating Costs | \$ | - | Sum of Lines 11 through 18 |
| 20 | Monthly Charge for Catawba Project Operating Costs | \$ | - | Line 3 x Line 19 |

NOTES:

[1] For calendar year 2024, the base amount shall be equal to \$458,333 per month. For subsequent calendar years, the base amount shall be adjusted by the ratio of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), as published by the U.S. Department of Labor's Bureau of Labor Statistics for the month of December of the prior calendar year to the CPI-W for the month of December of the second year prior to the applicable calendar year (e.g., the ratio of CPI-W for December 2024 to the CPI-W for December 2023 would be the adjustment ratio for Calendar Year 2025). Every 5th Calendar Year (starting in 2029, 2034, 2039, etc. until the end of the Term), the Parties will establish a new base amount that is equal to NCMPA1's most recent three-year average annual amount of Catawba Project Related A&G, divided by 12. The new base amount shall be adjusted as described above in each of the next four respective calendar years.

[2] Rates established pursuant to NCMPA1 Decommissioning Funding Policy, updated each year, based on historical and projected data and assumptions.

[3] Subject to annual true-up in March of each year.

[4] References to specific lines of the Operating Agreement Report OM are reflective of the form of this report provided by Duke as of the Effective Date of the Agreement, and the references may be updated if this report from Duke takes a different form in the future.

EXHIBIT 2

FORM OF LEGAL OPINION AS TO SELLER

_____, 2023

Central Electric Power Cooperative, Inc.
20 Cooperative Way
Columbia, SC 29210

Re: Power Purchase Agreement dated as of _____, 2023 by and between Central Electric Power Cooperative and North Carolina Municipal Power Agency Number 1 and Exhibits thereto (collectively, the “Agreement”)

Ladies and Gentlemen:

We have acted as counsel for North Carolina Municipal Power Agency Number 1 (“NCMPA”) in connection with the authorization, approval and execution of the Agreement. We are providing this opinion at NCMPA’s request, pursuant to the Agreement.

In rendering this opinion, we have assumed the authenticity of all documents submitted to us as certified or photostatic copies.

Based on the foregoing, and subject to the assumptions and qualifications contained herein, we are of the opinion as of this date that:

1. NCMPA is a joint agency validly existing pursuant to the laws of North Carolina.
2. NCMPA has the power and authority to execute and deliver the Agreement and to perform its obligations thereunder. The execution, delivery, and performance of the Agreement by NCMPA has been authorized by all necessary action on the part of the governing body of NCMPA.
3. Resolutions authorizing the execution, delivery, and performance of the Agreement by NCMPA were duly adopted by the governing body of NCMPA on _____, at a meeting duly called and regularly assembled in accordance with applicable North Carolina law including, without limitation, any open meetings laws of the State.
4. The Agreement has been duly executed and delivered by NCMPA and constitutes the legal, valid, binding, and enforceable obligations of NCMPA.
5. Except for approval of the Agreement by the cities and towns that are parties to the Project Power Sales Agreements related to the Catawba nuclear project between NCMPA and such cities and towns, as such approval is specifically described in Section 3.1.3 of the Agreement, no approval, consent, or authorization of any governmental body or public agency or authority not already obtained is required for the execution, delivery, and performance of the Agreement by NCMPA.

6. The execution, delivery, and performance of the Agreement by NCMPA and the provisions thereof do not conflict with, violate, or constitute a breach of, or default under, any instrument relating to the creation, authorization, organization, existence, or operation of NCMPA; any commitment, agreement, or other instrument to which NCMPA is a party or by which it or its property or assets is bound or affected; or any constitution, law, rule, regulation, government code, resolution, ordinance, judgment, order, writ, decree, or ruling to which NCMPA (or any of its officials in their respective capacities as such) or its property is subject.

7. There are no legal proceedings threatened or pending that would be reasonably likely to materially adversely affect NCMPA's ability to perform the Agreement.

8. NCMPA is subject to suit and liability with respect to its contractual obligations under the Agreement, in accordance with the Agreement, and does not, with respect to its contractual obligations under the Agreement, have any immunity from suit or jurisdiction on the grounds of sovereignty or otherwise.

The opinions expressed herein are subject to the following qualifications:

(a) The enforceability of the Agreement and the rights and remedies thereunder are subject to and may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship, or other similar laws from time-to-time in effect relating to or affecting generally the enforcement of creditors' rights, and (ii) general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith, and fair dealing (regardless of whether considered in a proceeding at law or an equity);

(b) We express no opinion as to the enforceability of any provision of the Agreement purporting to waive the right to trial by jury, constitute a consent to jurisdiction or waiver of service of process; and

(c) The opinions expressed herein are limited to the laws of the State of North Carolina and the Federal laws of the United States of America. For purposes of the opinions expressed in this opinion, we have assumed that the Agreement will be governed by North Carolina law exclusively, notwithstanding any provision of the Agreement designating the law of any other state as the governing law.

The opinions expressed herein are based on laws and facts existing as of the date hereof. We expressly disclaim any obligation to update or supplement this opinion letter for changes in law or fact occurring or coming to our attention after the date hereof.

We are furnishing this opinion letter to you only and no other person or entity is entitled to rely on this opinion letter without our express written consent.

Sincerely,

EXHIBIT 3**FORM OF LEGAL OPINION AS TO PURCHASER**

_____, 2023

North Carolina Municipal Power Agency Number 1
 1427 Meadow Wood Blvd
 Raleigh, NC 27604

Re: Power Purchase Agreement dated as of _____, 2023 by and between North Carolina Municipal Power Agency Number 1 and Central Electric Power Cooperative and Exhibits thereto (collectively, the “Agreement”)

Ladies and Gentlemen:

We have acted as counsel for Central Electric Power Cooperative, Inc. (“Central”) in connection with the authorization, approval and execution of the Agreement. We are providing this opinion at Central’s request, pursuant to the Agreement.

In rendering this opinion, we have assumed the authenticity of all documents submitted to us as certified or photostatic copies.

Based on the foregoing, and subject to the assumptions and qualifications contained herein, we are of the opinion as of this date that:

1. Central is a generation and transmission electric cooperative formed under SC Code 33-49-10 et. seq. (“South Carolina Electric Cooperative Act”).
2. Central has the power and authority to execute and deliver the Agreement and to perform its obligations thereunder. The execution, delivery, and performance of the Agreement by Central has been authorized by all necessary action on the part of the governing body of Central.
3. Resolutions authorizing the execution, delivery, and performance of the Agreement by Central were duly adopted by the governing body of Central on _____, at a meeting duly called and regularly assembled in accordance with applicable South Carolina law including, without limitation, any requirements of Central’s articles of incorporation and bylaws.
4. The Agreement has been duly executed and delivered by Central and constitutes the legal, valid, binding, and enforceable obligations of Central.
5. No approval, consent, or authorization of any governmental body or public agency or authority not already obtained is required for the execution, delivery, and performance of the Agreement by Central.

6. The execution, delivery, and performance of the Agreement by Central and the provisions thereof do not conflict with, violate, or constitute a breach of, or default under, any instrument relating to the creation, authorization, organization, existence, or operation of Central; any commitment, agreement, or other instrument to which Central is a party or by which it or its property or assets is bound or affected; or any constitution, law, rule, regulation, government code, resolution, ordinance, judgment, order, writ, decree, or ruling to which Central (or any of its officials in their respective capacities as such) or its property is subject.

7. There are no legal proceedings threatened or pending that would be reasonably likely to materially adversely affect Central's ability to perform the Agreement.

8. Central is subject to suit and liability with respect to its contractual obligations under the Agreement, in accordance with the Agreement, and does not, with respect to its contractual obligations under the Agreement, have any immunity from suit or jurisdiction on the grounds of sovereignty or otherwise.

The opinions expressed herein are subject to the following qualifications:

(a) The enforceability of the Agreement and the rights and remedies thereunder are subject to and may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship, or other similar laws from time-to-time in effect relating to or affecting generally the enforcement of creditors' rights and (ii) general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith, and fair dealing (regardless of whether considered in a proceeding at law or an equity);

(b) We express no opinion as to the enforceability of any provision of the Agreement purporting to waive the right to trial by jury, constitute a consent to jurisdiction or waiver of service of process; and

(c) The opinions expressed herein are limited to the laws of the State of South Carolina and the Federal laws of the United States of America. For purposes of the opinions expressed in this opinion, we have assumed that the Agreement will be governed by South Carolina law exclusively, notwithstanding any provision of the Agreement designating the law of any other state as the governing law.

The opinions expressed herein are based on laws and facts existing as of the date hereof. We expressly disclaim any obligation to update or supplement this opinion letter for changes in law or fact occurring or coming to our attention after the date hereof.

We are furnishing this opinion letter to you only and no other person or entity is entitled to rely on this opinion letter without our express written consent.

Sincerely,

EXECUTION VERSION

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their duly authorized representatives as of the day and year first written above.

Central Electric Power Cooperative, Inc.

CENTRAL
LEGAL APPROVED
6/2/2023
[Signature]

By: Robert C. Hochstetler

Name: Robert C. Hochstetler

Title: President and CEO

Date: JUNE 5, 2023

Attest:

Shari G. Kirkland

Name: Shari G. Kirkland

Title: Manager of Administrative Services

June 5, 2023

North Carolina Municipal Power Agency Number 1
1427 Meadow Wood Blvd
Raleigh, NC 27604

Re: Power Purchase Agreement dated as of June 5, 2023 by and between
North Carolina Municipal Power Agency Number 1 and Central Electric Power
Cooperative and Exhibits thereto (collectively, the "Agreement")

Ladies and Gentlemen:

We have acted as counsel for Central Electric Power Cooperative, Inc. ("Central") in connection with the authorization, approval and execution of the Agreement. We are providing this opinion at Central's request, pursuant to the Agreement.

In rendering this opinion, we have assumed the authenticity of all documents submitted to us as certified or photostatic copies.

Based on the foregoing, and subject to the assumptions and qualifications contained herein, we are of the opinion as of this date that:

1. Central is a generation and transmission electric cooperative formed under SC Code 33-49-10 et. seq. ("South Carolina Electric Cooperative Act").
2. Central has the power and authority to execute and deliver the Agreement and to perform its obligations thereunder. The execution, delivery, and performance of the Agreement by Central has been authorized by all necessary action on the part of the governing body of Central.
3. Resolutions authorizing the execution, delivery, and performance of the Agreement by Central were duly adopted by the governing body of Central on March 15, 2023, at a meeting duly called and regularly assembled in accordance with applicable South Carolina law including, without limitation, any requirements of Central's articles of incorporation and bylaws.
4. The Agreement has been duly executed and delivered by Central and constitutes the legal, valid, binding, and enforceable obligations of Central.
5. No approval, consent, or authorization of any governmental body or public agency or authority not already obtained is required for the execution, delivery, and performance of the Agreement by Central.
6. The execution, delivery, and performance of the Agreement by Central and the provisions thereof do not conflict with, violate, or constitute a breach of, or default under, any instrument relating to the creation, authorization, organization, existence, or operation of Central:

any commitment, agreement, or other instrument to which Central is a party or by which it or its property or assets is bound or affected; or any constitution, law, rule, regulation, government code, resolution, ordinance, judgment, order, writ, decree, or ruling to which Central (or any of its officials in their respective capacities as such) or its property is subject.

7. There are no legal proceedings threatened or pending that would be reasonably likely to materially adversely affect Central's ability to perform the Agreement.

8. Central is subject to suit and liability with respect to its contractual obligations under the Agreement, in accordance with the Agreement, and does not, with respect to its contractual obligations under the Agreement, have any immunity from suit or jurisdiction on the grounds of sovereignty or otherwise.

The opinions expressed herein are subject to the following qualifications:


(a) The enforceability of the Agreement and the rights and remedies thereunder are subject to and may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship, or other similar laws from time-to-time in effect relating to or affecting generally the enforcement of creditors' rights and (ii) general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith, and fair dealing (regardless of whether considered in a proceeding at law or an equity):

(b) We express no opinion as to the enforceability of any provision of the Agreement purporting to waive the right to trial by jury, constitute a consent to jurisdiction or waiver of service of process; and

(c) The opinions expressed herein are limited to the laws of the State of South Carolina and the Federal laws of the United States of America. For purposes of the opinions expressed in this opinion, we have assumed that the Agreement will be governed by South Carolina law exclusively, notwithstanding any provision of the Agreement designating the law of any other state as the governing law.

The opinions expressed herein are based on laws and facts existing as of the date hereof. We expressly disclaim any obligation to update or supplement this opinion letter for changes in law or fact occurring or coming to our attention after the date hereof.

We are furnishing this opinion letter to you only and no other person or entity is entitled to rely on this opinion letter without our express written consent.

Sincerely,


Alexander G. Hall
General Counsel

Certificate as to Resolution

I, F. Timothy Tunis, Assistant Secretary-Treasurer of the Board of Directors (the Board") of North Carolina Municipal Power Agency Number 1 ("Power Agency"), hereby certify that: I am charged with the duty of keeping and have custody of the minutes and official records of the Board; attached hereto is a full, true and complete copy of Resolution No. BDR-4-23, duly adopted by said Board on May 25, 2023 (the "Resolution"), which Resolution has not been amended, modified, superseded or repealed and is in full force and effect as of the date hereof.

I further certify that the meeting at which the Resolution was adopted was duly called and regularly assembled in accordance with applicable North Carolina law including, without limitation, any open meetings laws of the State.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of Power Agency this 1st day of June, 2023.



F. Timothy Tunis
Assistant Secretary-Treasurer

[SEAL]



Attachment Resolution No. BDR-4-23

**NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1
BOARD OF DIRECTORS
RESOLUTION NO. BDR-4-23**

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTION OF
POWER PURCHASE AGREEMENT
BETWEEN
NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1
AND
CENTRAL ELECTRIC POWER COOPERATIVE, INC.**

WHEREAS, pursuant to a motion made, seconded and approved at a meeting of the Board of Directors on November 18, 2023 (the "Authorizing Motion"), the Board of Directors authorized the staff of North Carolina Municipal Power Agency Number 1 ("Power Agency") to negotiate a Power Purchase Agreement with Central Electric Power Cooperative, Inc. ("Central") pursuant to which Power Agency would sell and Central would acquire nuclear capacity and energy associated with a portion of Power Agency's ownership and contractual interest in the Catawba Project (the "Contract Capacity and Energy"); and

WHEREAS, pursuant to the Authorizing Motion, the staff and agents of Power Agency have been negotiating and have reached agreement on the terms and conditions of a Power Purchase Agreement (the "PPA") with Central pursuant to which Power Agency will sell and Central will acquire the Contract Capacity and Energy; and

WHEREAS, a copy of the PPA, in the form negotiated by the staff and agents of Power Agency and representatives of Central, has been provided to the members of the Board for their review; and

WHEREAS, the staff of Power Agency recommends that the Board approve and authorize the execution of the PPA.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1:

Section 1. **Power Purchase Agreement.** Power Agency hereby approves and authorizes the execution of the PPA by Roy L. Jones, Chief Executive Officer ("CEO"), or his designee, and the delivery thereof to Central, substantially in the form of the "Power Purchase Agreement" presented to this meeting, with such changes and additions to and omissions from said form as the CEO, or his designee, after consultation with counsel to Power Agency, shall approve as necessary or appropriate, such execution and delivery to be conclusive evidence of such approval and consultation.

Section 2. **Delivery and Further Authority.** The CEO, or his designee, is hereby authorized to (i) deliver the PPA to Central, (ii) carry out or cause to be carried out the obligations of Power Agency under the PPA, subject to Section 1 of this Resolution, and (iii) otherwise carry out the transactions contemplated by the PPA and this Resolution.

Section 3. **Ratification.** All action taken prior to the adoption of this Resolution by the officers, employees and agents of Power Agency relating to the transactions contemplated by the PPA and this Resolution are hereby ratified and confirmed.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon its adoption.

Adopted this 25th day of May, 2023.


Chairman

ATTEST:


Secretary


Note: This item will be discussed in Closed Session. Any votes taken on this item will be taken in Open Session.

Certificate as to Resolution

I, F. Timothy Tunis, Assistant Secretary-Treasurer of the Board of Directors (the Board") of North Carolina Municipal Power Agency Number 1 ("Power Agency"), hereby certify that: I am charged with the duty of keeping and have custody of the minutes and official records of the Board; attached hereto is a full, true and complete copy of Resolution No. BDR-5-23, duly adopted by said Board on May 25, 2023 (the "Resolution"), which Resolution has not been amended, modified, superseded or repealed and is in full force and effect as of the date hereof.

I further certify that the meeting at which the Resolution was adopted was duly called and regularly assembled in accordance with applicable North Carolina law including, without limitation, any open meetings laws of the State.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of Power Agency this 1st day of June, 2023.



F. Timothy Tunis
Assistant Secretary-Treasurer



NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

BOARD OF DIRECTORS

RESOLUTION NO. BDR-5-23

**A RESOLUTION AUTHORIZING
THE EXECUTION AND DELIVERY OF
AMENDMENT AGREEMENT NO. 3 TO PROJECT POWER SALES
AGREEMENT, CATAWBA NUCLEAR PROJECT,
AND RELATING TO OTHER MATTERS IN CONNECTION
WITH THE FOREGOING**

WHEREAS, North Carolina Municipal Power Agency Number 1 (“Power Agency”) intends to enter into a Power Purchase Agreement (as the same may be supplemented and amended, the “PPA”) with Central Electric Power Cooperative, Inc. (including successors and permitted assigns, “Central”), pursuant to which Power Agency has agreed to sell and transfer, and Central has agreed to purchase and pay for, nuclear capacity and energy associated with a portion of Power Agency’s ownership and contractual interest in the Catawba Project (the “Contract Capacity and Energy”); and

WHEREAS, Power Agency’s and Central’s respective obligations set forth in the PPA are conditioned, among other things, upon (i) the execution by each of Power Agency’s Participants of an amendment to its Project Power Sales Agreement, Catawba Project (“Amendment Agreement No. 3”), and (ii) the receipt by Power Agency of the unanimous consent of its Participants to, and approval of, (a) the consummation of the transactions contemplated by the PPA, and (b) such other documents or agreements as may be necessary to effect or implement the PPA; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency’s Consulting Engineer, to prepare an economic analysis of the projected financial impact of the transactions contemplated by the PPA on Power Agency’s wholesale power costs and associated full requirements wholesale rates that was presented to the Board of Directors on April 21, 2023 (the “Economic Analysis”); and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
POWER AGENCY:**

1. It is hereby found and determined that it is in the best interests of Power Agency to enter into Amendment Agreement No. 3 a copy of which is attached to this resolution. The Board hereby authorizes and directs the Chief Executive Officer and an Assistant Secretary to execute for and on behalf of Power Agency Amendment Agreement No. 3 substantially in the form and substance of the proposed Amendment Agreement No. 3, with such additions, changes, deletions, or modifications thereto as, after consultation with counsel and upon approval of the Chairman and Chief Executive Officer, may be necessary, advisable or convenient, in the name and on behalf

of Power Agency and thereupon to cause such Amendment Agreement No. 3 to be delivered to Power Agency's Participants with the recommendation of this Board of Directors that it be approved and executed by the Participants.

2. The execution of the Amendment Agreement No. 3 by the Chief Executive Officer and an Assistant Secretary shall constitute conclusive evidence of such consultation with counsel and final approval by both the Chairman and Chief Executive Officer of any and all changes or revisions therein from the forms thereof presented to this meeting.

3. This Board hereby authorizes and directs its proper officers, counsel, employees and agents to execute such documents or take such action as upon the advice of counsel shall be necessary, advisable or convenient to (i) obtain the unanimous consent of Power Agency's Participants to, and approval of, (a) the consummation of the transactions contemplated by the PPA, (b) Amendment Agreement No. 3, and (c) such other documents or agreements as may be necessary to effect or implement (a), (b) or (c), and (ii) to effectuate the sale and purchase of Contract Capacity and Energy as contemplated by the PPA, and (iii) to carry out the other transactions contemplated by this Resolution.

4. This Board hereby directs the Chief Executive Officer to cause to be furnished to each member of Power Agency a copy of each of the following: (i) this Resolution, (ii) the PPA, (iii) execution and work copies of Amendment Agreement No. 3, and (iv) the Economic Analysis.

5. This Board hereby directs its Secretary to file with the minutes of this meeting each of the documents referred to in clauses (i) through (iv) of paragraph 4 hereof as presented and available at this meeting.

6. This Resolution shall take effect upon its adoption.

ADOPTED this 25th day of May, 2023.


Chairman

ATTEST:


Secretary


Note: This item will be discussed in Closed Session. Any votes taken on this item will be taken in Open Session.

Certificate as to Resolution

I, F. Timothy Tunis, Assistant Secretary-Treasurer of the Board of Directors (the Board") of North Carolina Municipal Power Agency Number 1 ("Power Agency"), hereby certify that: I am charged with the duty of keeping and have custody of the minutes and official records of the Board; attached hereto is a full, true and complete copy of Resolution No. BDR-9-23, duly adopted by said Board on July 28, 2023 (the "Resolution"), which Resolution has not been amended, modified, superseded or repealed and is in full force and effect as of the date hereof.

I further certify that the meeting at which the Resolution was adopted was duly called and regularly assembled in accordance with applicable North Carolina law including, without limitation, any open meetings laws of the State.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of Power Agency this 28th day of July, 2023.



F. Timothy Tunis
Assistant Secretary-Treasurer

[SEAL]



Attachment: Resolution No. BDR-9-23



Economic Analysis of Proposed 150 MW Sale from Catawba to Central

NCMPA1 Rate Committee

March 21, 2023



Confidential Discussions

Section 2, Item 2.1

This presentation and related discussions contain commercially sensitive information that is allowed to be discussed in closed session per the North Carolina General Statutes.

This information is also subject to Confidentiality Agreements with Central Electric Power Cooperative, Inc. (Central) and Duke Energy Carolinas (DEC).

Agenda

Section 2, Item 2.1

- **Background and Executive Summary**
- Central Transaction
- Updated Economic Analysis
- Next Steps

Background – Efforts to Diversify Resources

Section 2, Item 2.1

- NCMPA1 conducted RFP process in 2011-12 with negligible results
- NCMPA1 pursued the potential sale of 50% of NCMPA1's ownership interest in the Catawba nuclear station to Duke Energy Carolinas (DEC) in the 2016-2018 timeframe to diversify its portfolio and reduce rates in the near term
 - DEC pulled the plug on the deal in early 2019 due to political issues surrounding nuclear power in South Carolina, decreasing natural gas prices, and DEC's excess capacity situation
- During 2022, NCMPA1 engaged in similar discussions with both DEC and Central Electric Power Cooperative, Inc. (Central) who provides wholesale electric service to all of South Carolina's 20 electric cooperatives

Background – Status of Discussions

- In November 2022, preliminary economic analysis was presented to the NCMIPA1 BOC and Electricities BOD
 - For various economic and other reasons, NCMIPA1 staff was directed to pursue the Central 150 MW sale transaction, rather than any transaction with DEC
 - On November 18, 2022, NCMIPA1 and Central executed a letter of intent to pursue a Power Purchase Agreement (PPA) for 150 MW of Catawba Project entitlement
 - NCMIPA1 staff and advisors have finalized the proposed PPA and, if approved, is ready for execution



Background – About Central

- Not-for-profit generation and transmission cooperative headquartered in Columbia, SC
- Provides power to approximately 1/3rd of SC's population within the DEC and Santee Cooper Balancing Authorities
- 800 miles transmission, 70,000 miles distribution and 800,000 meters
- Obtains most power through purchase agreements through Santee, DEC and SEPA
- 4,200 MW peak load and 19 GWh annual energy requirements (~4x the size of NCMPA1)
- Several of the Upstate distribution cooperatives originally owned a portion of Catawba, but sold it in 2009 in connection with an RUS debt restructuring

Executive Summary – Sale to Central

- 150 MW sale offloads 18% of cost and nuclear concentration risk (however significant nuclear concentration risk remains)
- “Right-sizes” the power supply portfolio (eliminates excess capacity 2024-2030)
- “Locks-in” margins on surplus sales higher than current forecast
- Provides wholesale rate benefits over the term of the sale, potentially dropping wholesale rates below DEC, even in the near-term
- Transfers 18% of Catawba operating and decommissioning expenses to buyer

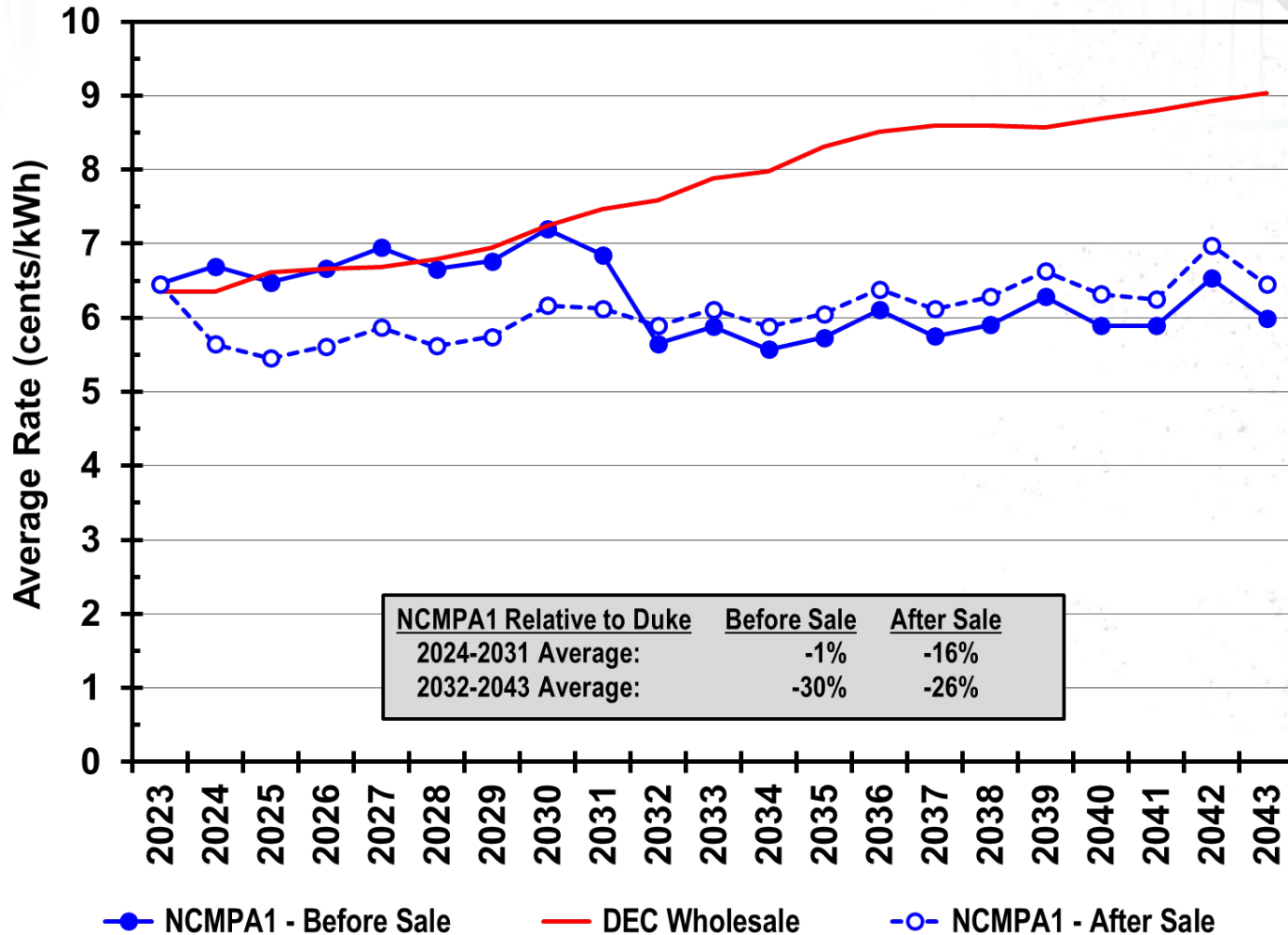
Executive Summary – Economic Analysis

Section 2, Item 2.1

| CPV Power Costs – Higher / (Lower) Due to the Sale | | | | | |
|--|------------------------|-----------------------------------|-------------|-------------|---------------------------------------|
| | Initial Rate Reduction | CURRENT Catawba Operating License | | | w/ EXTENDED Catawba Operating License |
| | | 2024 – 2031 | 2032 – 2043 | 2024 – 2043 | 2024 – 2063 |
| Reference Case | | | | | |
| \$ Millions (2023\$) | | (377) | 123 | (254) | (174) |
| Percent | (15%) | (15%) | 6% | (5%) | (3%) |
| Probabilistic Mean | | | | | |
| \$ Millions (2023\$) | | (378) | 120 | (258) | (171) |
| Percent | (15%) | (15%) | 5% | (5%) | (2%) |

Executive Summary – Competitive Position

Reference Case – Power Costs



DEC wholesale has not been adjusted for NCUC’s final Carbon Plan nor for the cost impacts of the announced merger of the DEC and DEP operating utility systems.

Executive Summary – Considerations for Central PPA Transaction

Section 2, Item 2.1

- Giving up potential upside in surplus market if prices increase further
- Catawba could continue to rise in value due to carbon constraints
- Uncertain cost of replacement power supply (beyond 2030)
- Timing and amount of baseload growth
- Likely increase in NCMPA1 carbon footprint
- Taking on credit risk of Central

Executive Summary – Central Board Action

Section 2, Item 2.1

- **Central Board of Trustees**
 - On September 14th, passed a resolution expressing interest in 150 MW PPA, and preferably with a right of first negotiation for additional capacity, should it become available
 - On October 19th, approved moving forward with development of PPA
 - On March 15th, approved PPA as drafted
 - Final execution of PPA in April assuming ElectriCities Board of Directors approval in April

Executive Summary – Approval Process for Sale Transaction

Section 2, Item 2.1

- Today – Rate Committee recommendation to BOC/BOD to move forward with PPA, based on economic analysis
- April BOC/BOD – consider approving PPA
- Execute PPA (by end of April)
- Secure consent to sale from all 19 NCMPA1 Participants and execute amendments to the Project Power Sales Agreements
- Assuming unanimous consent from Participants and all other conditions precedent have been met, begin sale effective January 1, 2024

Agenda

Section 2, Item 2.1

- Background and Executive Summary
- **Central Transaction**
- Updated Economic Analysis
- Next Steps

Central Transaction Overview

- Central would purchase 150 MW (18%) of Catawba output, structured as a PPA to mimic an outright ownership purchase
 - 8-year (2024-2031) levelized capital payment (\$56M/yr.)
 - Capital cost component based on risk-adjusted Combined Cycle Plant with a pass-through of Catawba operating costs
- 18% of NCMIPA1's Catawba operating costs passed through to Central (actual costs with true-ups)
- Includes costs and benefits of Catawba and McGuire Exchanges

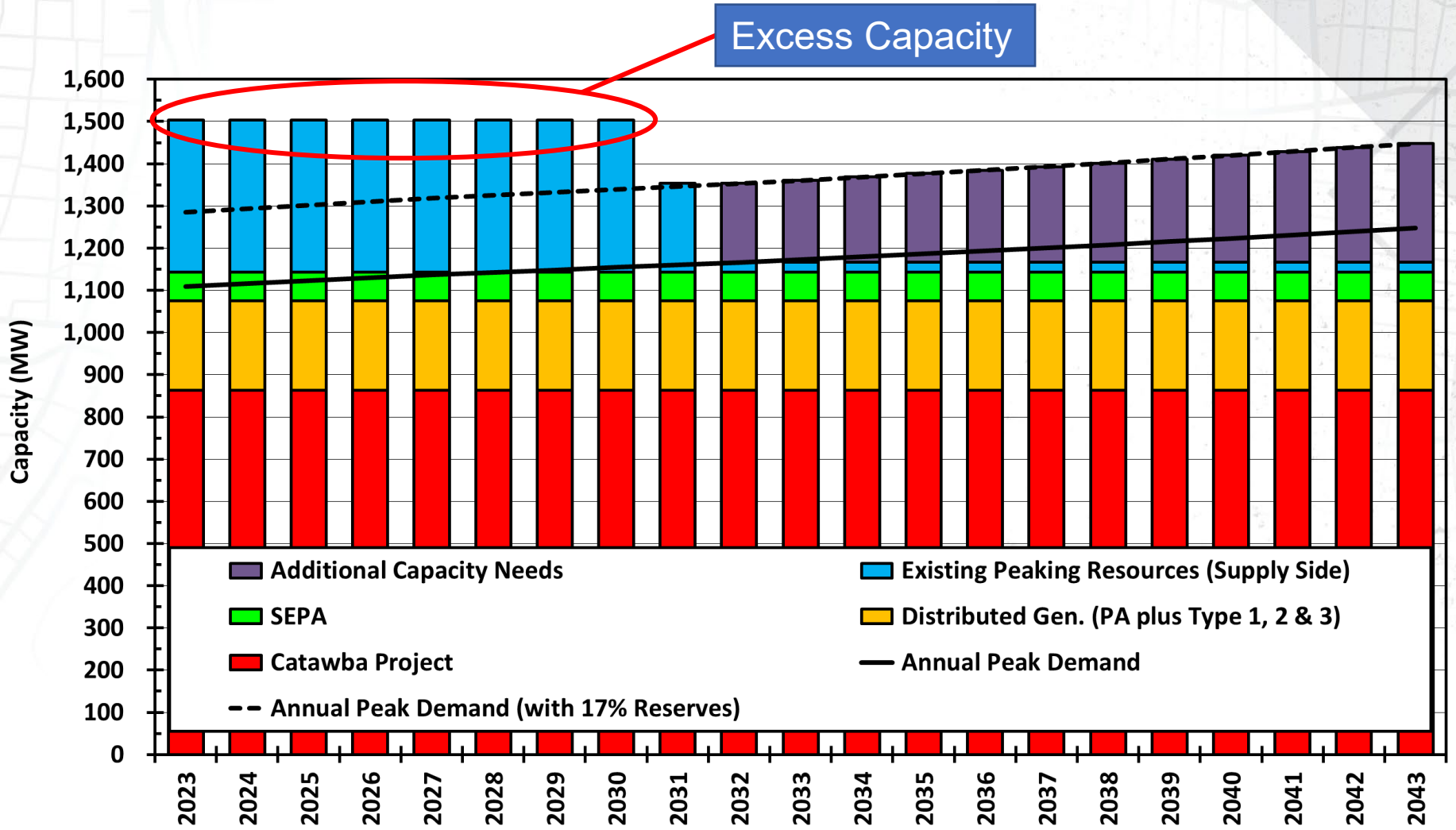
Central Transaction Overview (continued)

Section 2, Item 2.1

- Central will pay 50% of any future carbon tax based on the assumption that the energy purchased came from a natural gas Combined Cycle plant
- Central buys-in to NCMPA1's decommissioning fund and contributes at the same rate as NCMPA1 going forward
- Central's decommissioning obligation "trued-up" at termination

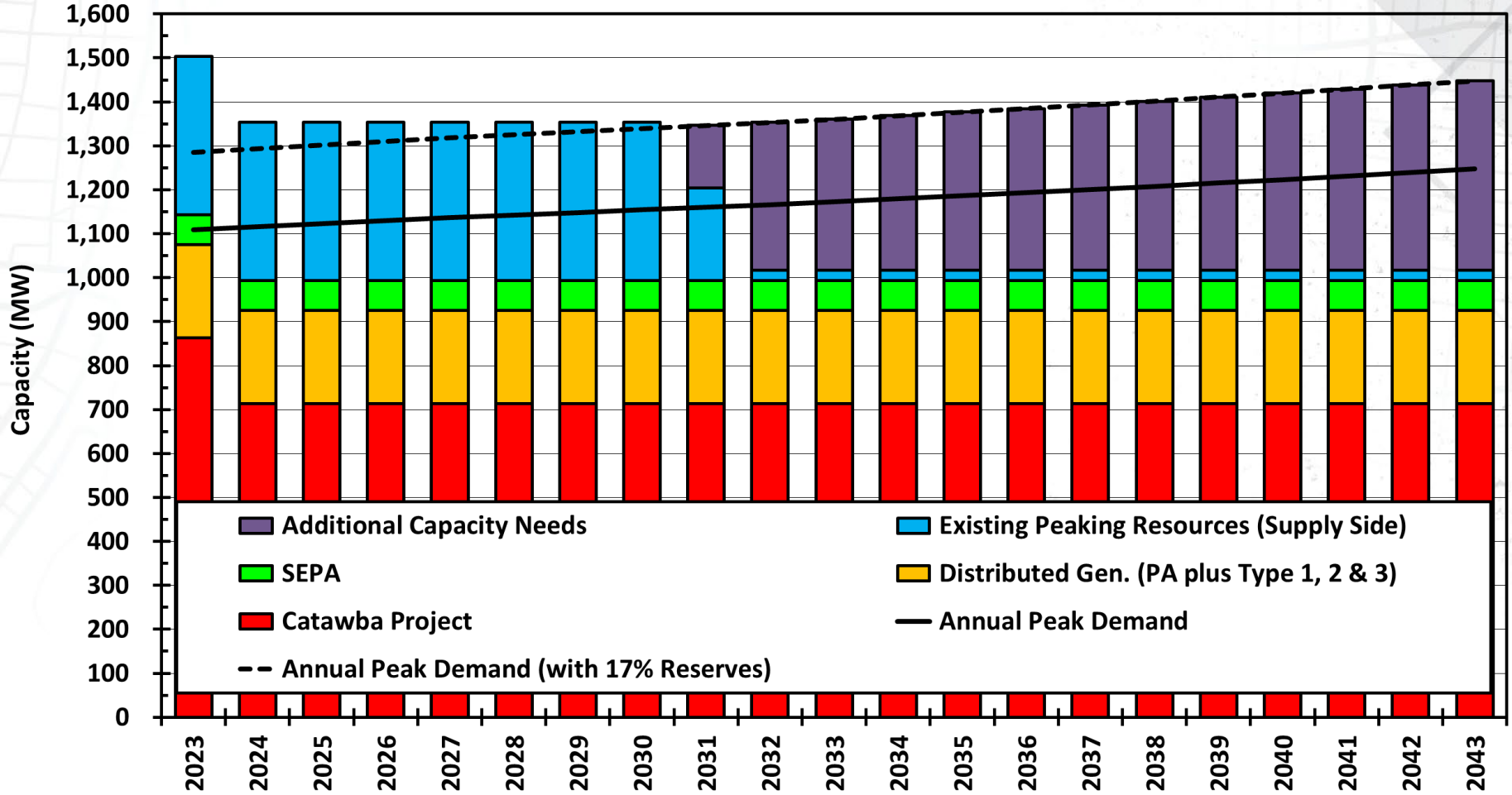
Projected Capacity Resources vs. Requirements Before Sale

Section 2, Item 2.1

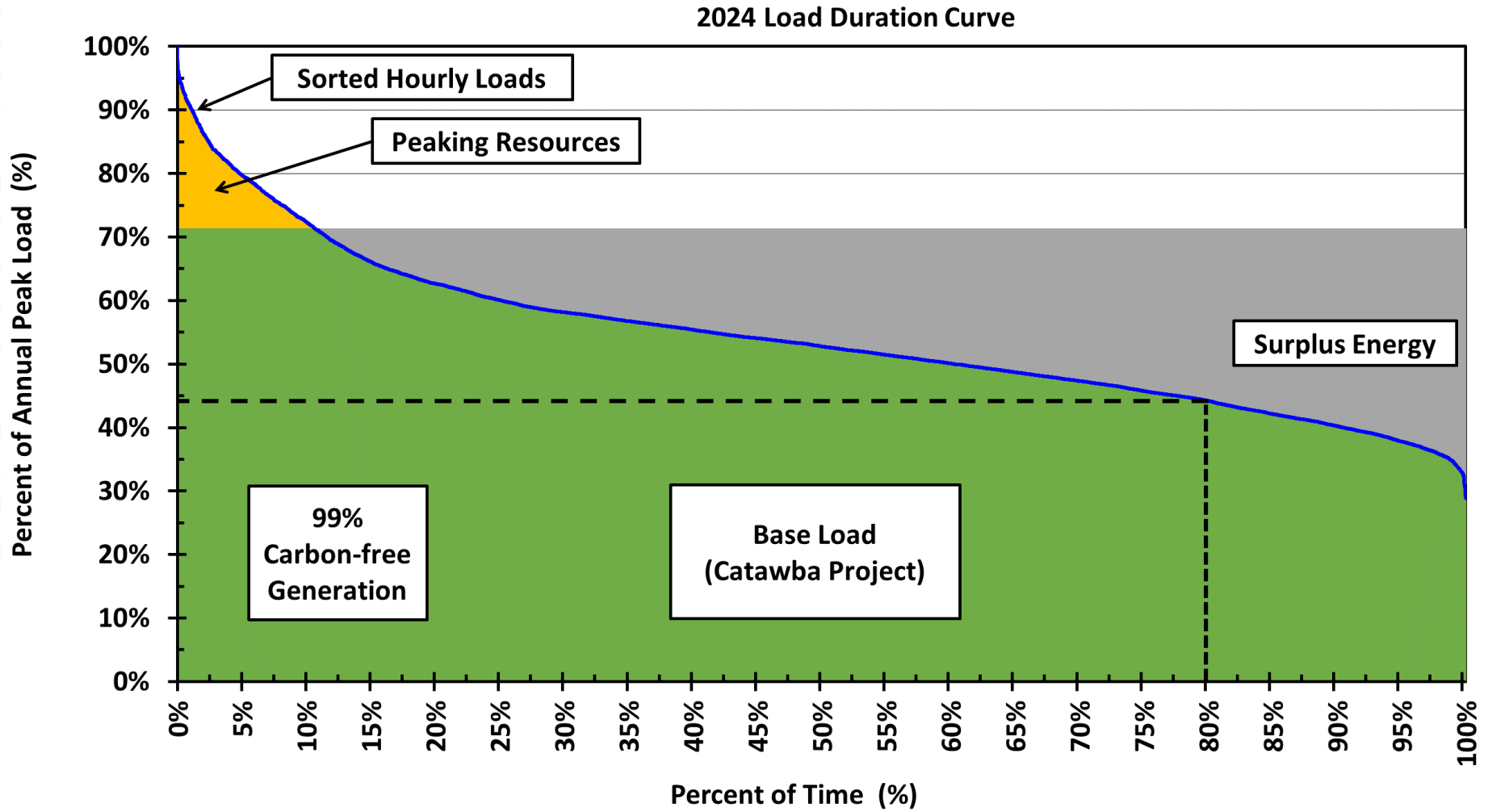


Projected Capacity Resources vs. Requirements After 150 MW Sale

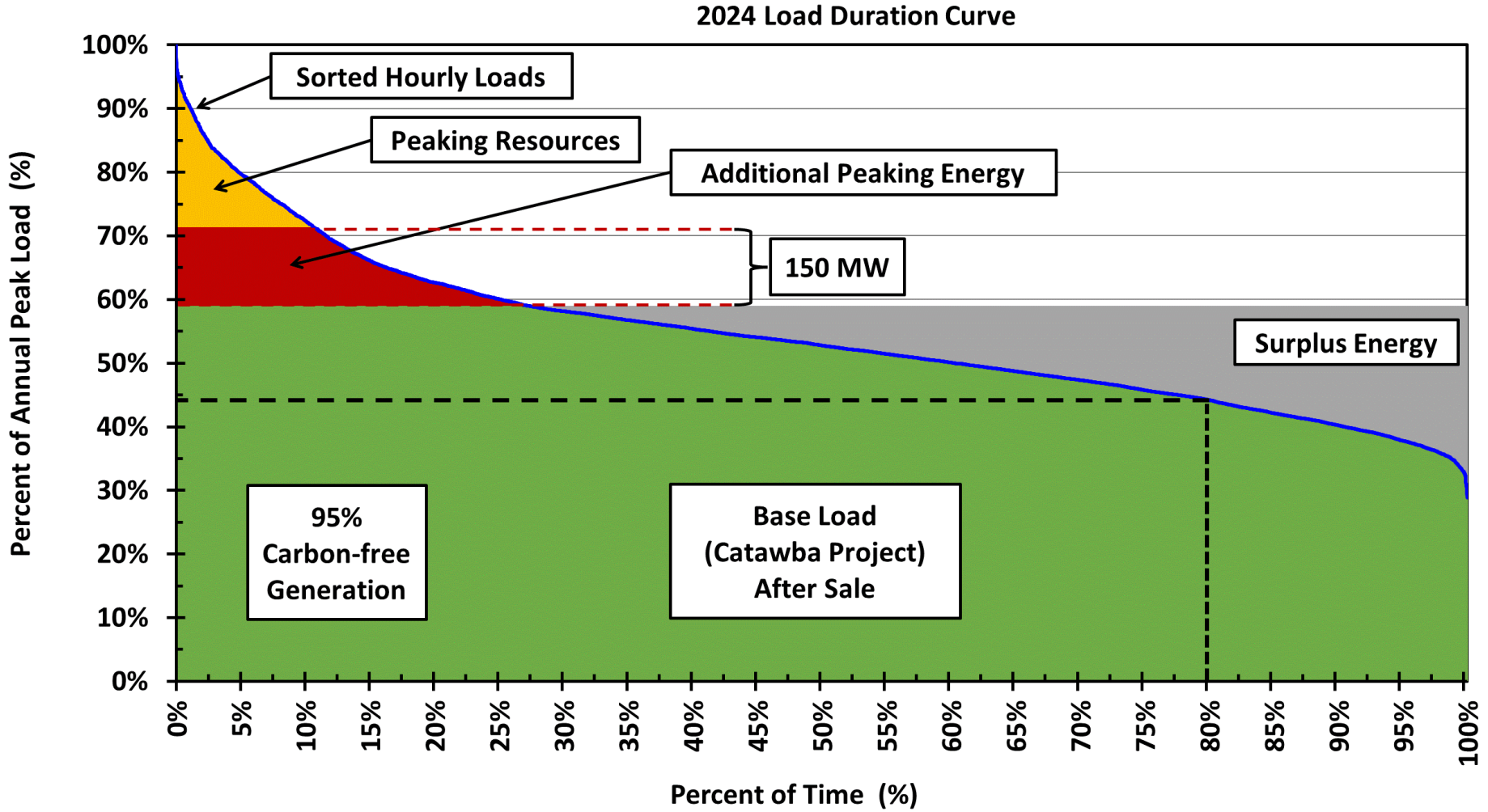
Section 2, Item 2.1



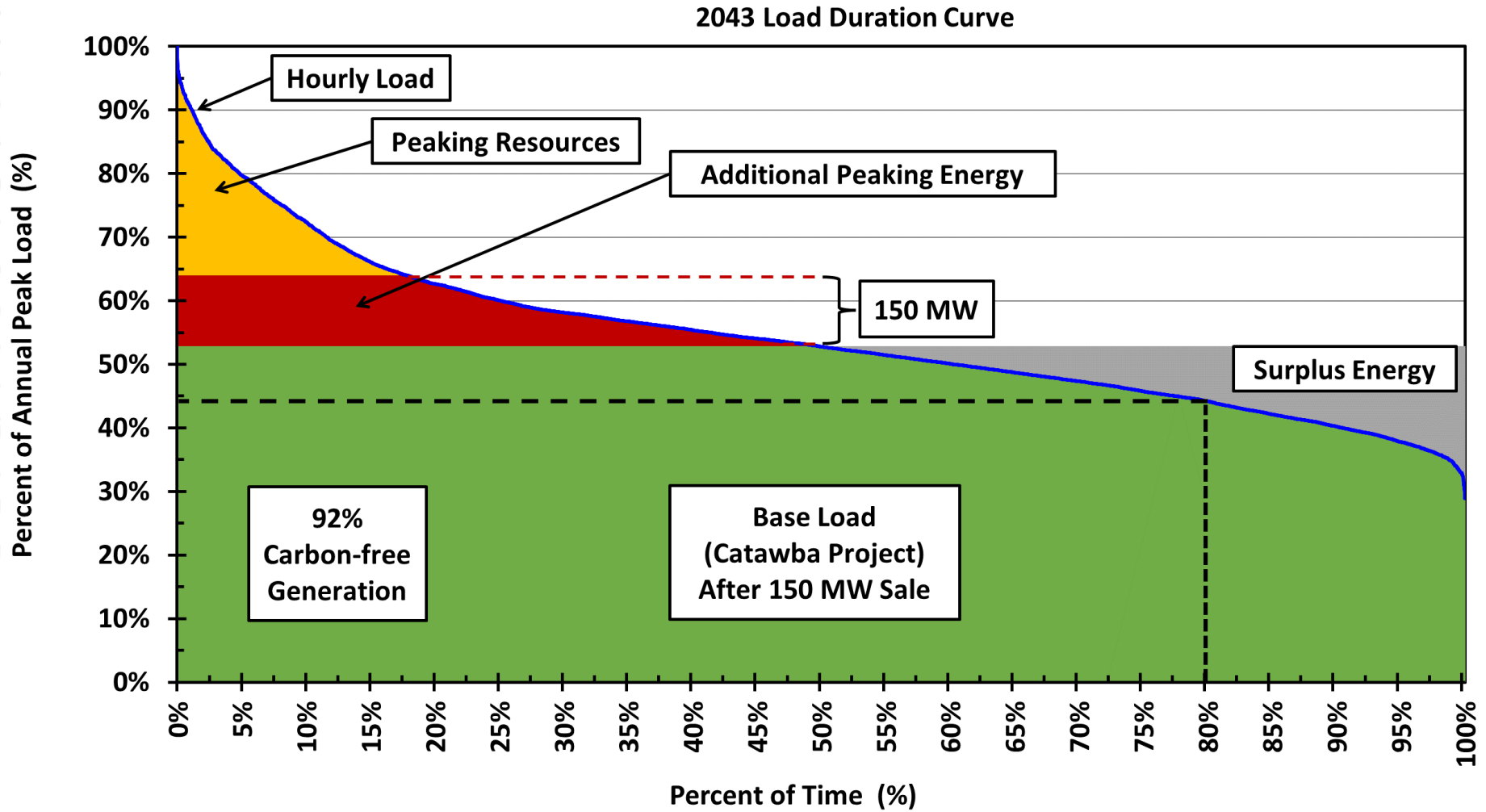
2024 Load Duration Curve



NCMPA1 2024 Load Duration Curve After 150 MW Sale



NCMPA1 2043 Load Duration Curve After 150 MW Sale



Agenda

Section 2, Item 2.1

- Background and Executive Summary
- Central Transaction
- **Updated Economic Analysis**
- Next Steps

Updated Economic Analysis

- Evaluated Economic Measure:
 - Cumulative Present Value (“CPV”) of projected power costs with and without the Transaction
 - All 19 Participants in aggregate (“on average”)
- “Reference Case” under single set of assumptions
- “Probabilistic Analysis” under a range of assumptions
- Consider Wholesale Competitive Position
- Individual Participant Impacts

Key Assumptions

- Power cost projections based on March 2023 NCMPA1 Rate Committee Meeting
 - Assumes continued good operations performance and efficient O&M spending at Catawba
- Term of proposed transaction January 1, 2024 (through Catawba operating licenses)

Key Assumptions (continued)

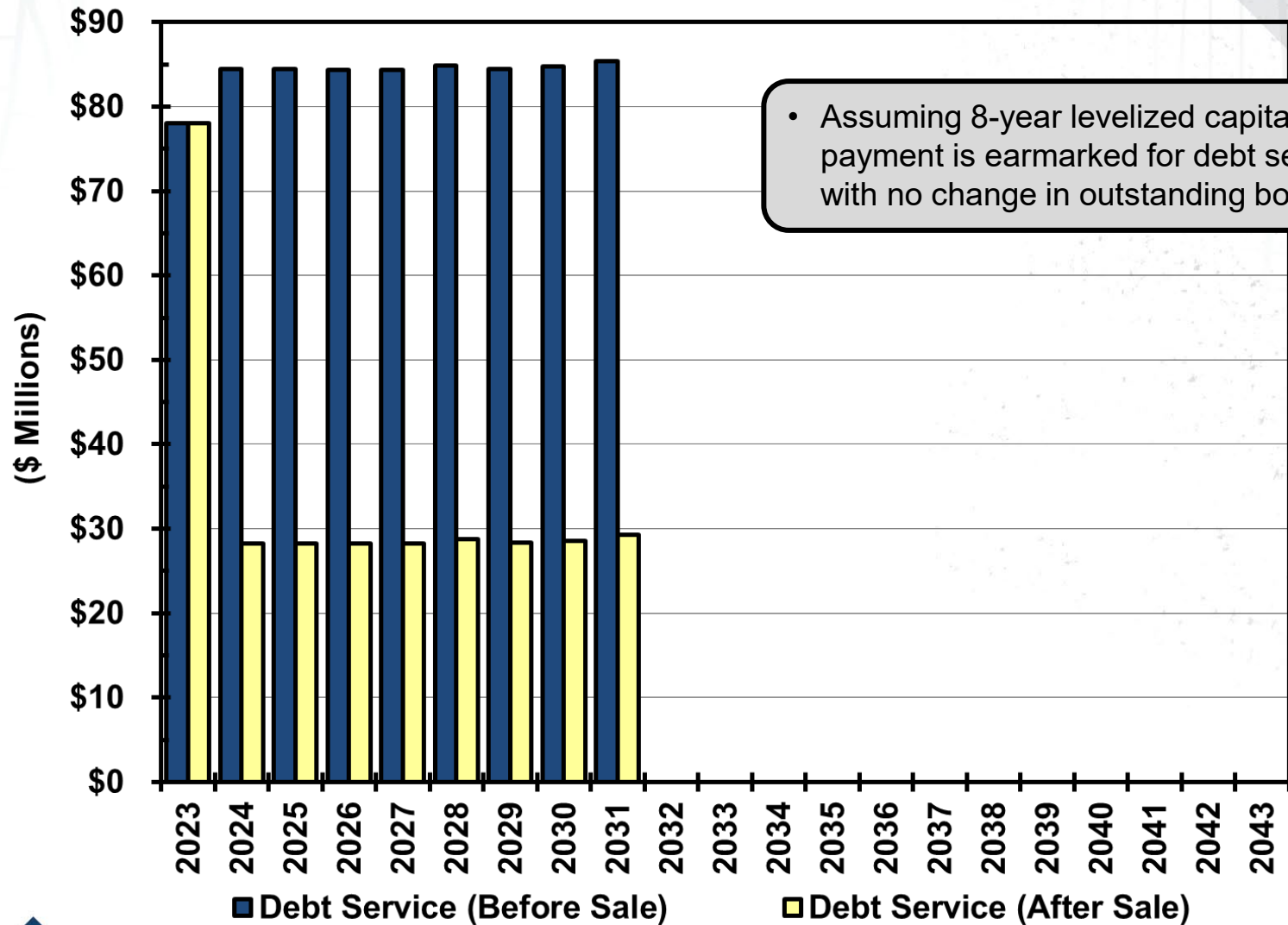
- Energy Information Administration (EIA) Annual Energy Outlook (AEO) cost assumptions for new generation construction costs and fuel prices
- NCMPA1 assumed to serve Participants' All Requirements load through 2043 (current Catawba operating licenses)
- Results under a 20-year Subsequent License Renewal (2044-2063) also shown

Key Assumptions (continued)

- Treatment of supplemental resources:
 - Without Sale of Catawba: additional peaking resources to supplement existing resources (2031 and beyond)
 - With 150 MW Sale of Catawba: in addition to the above, an incremental 150 MW of peaking resources is required (2031 and beyond)

Debt Service Before and After Sale (Illustrative)

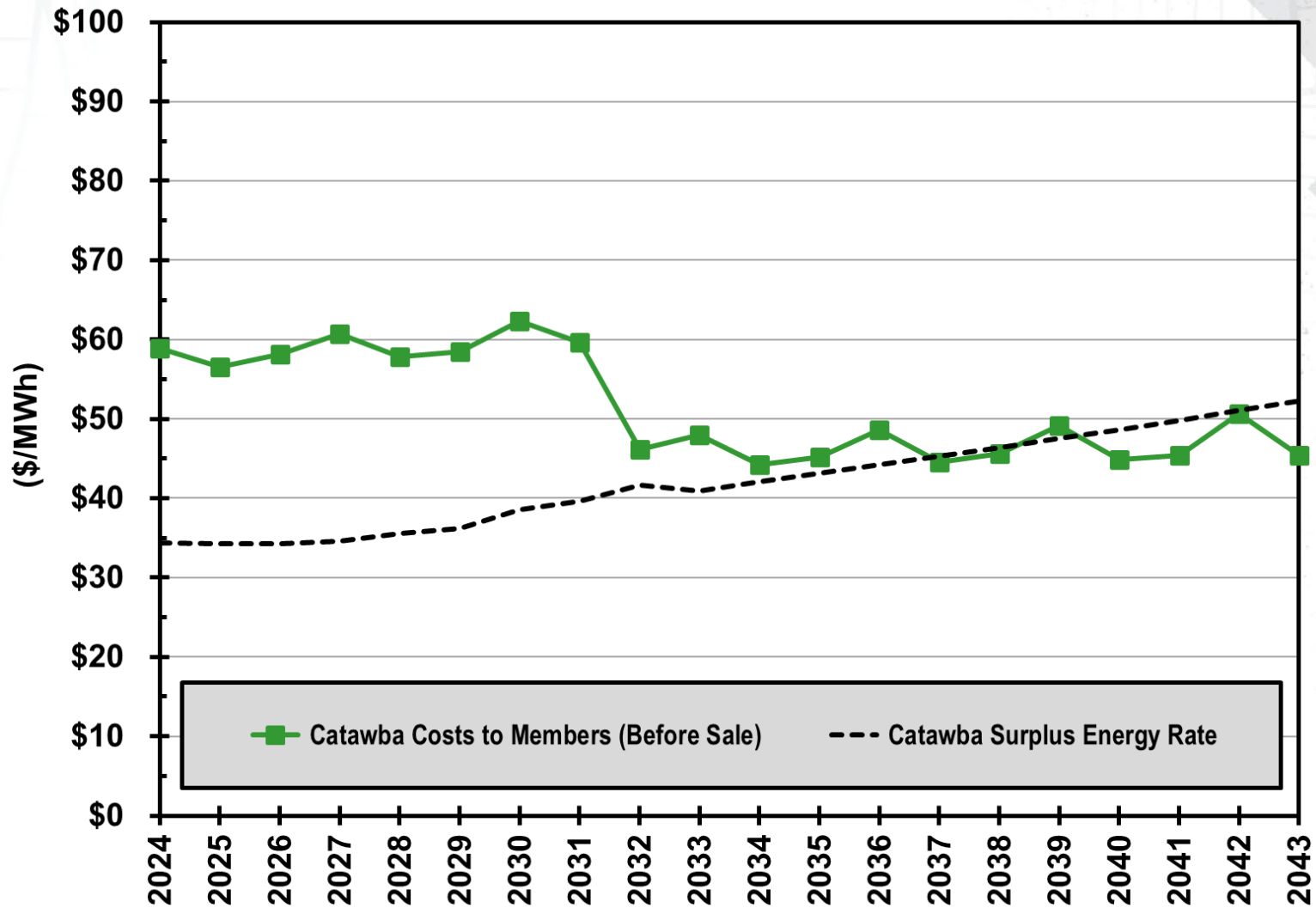
Debt Service - Before and After Sale



- Assuming 8-year levelized capital payment is earmarked for debt service with no change in outstanding bonds

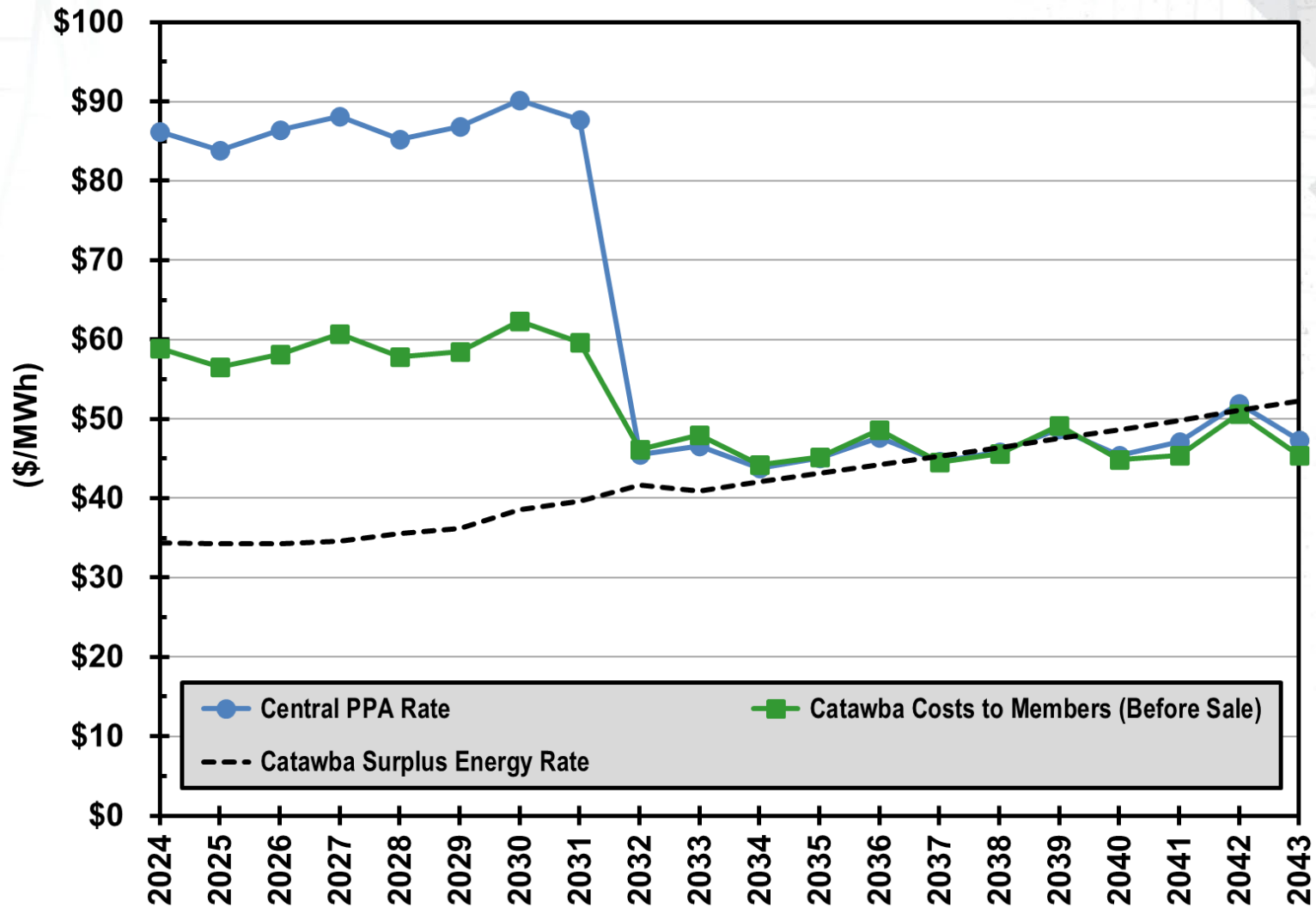
Impact of Sale on Catawba Costs – Reference Case

Section 2, Item 2.1

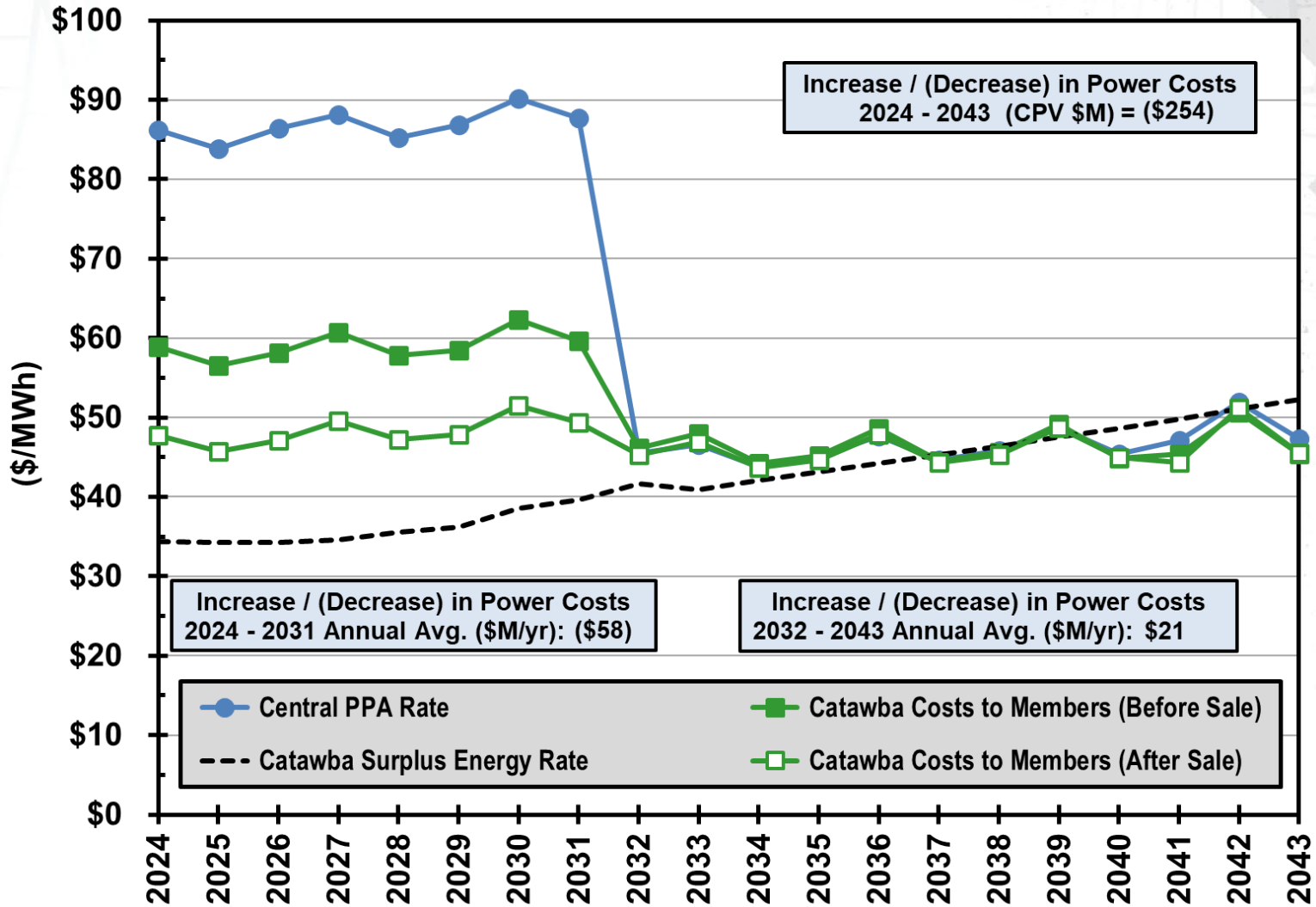


Impact of Sale on Catawba Costs – Reference Case

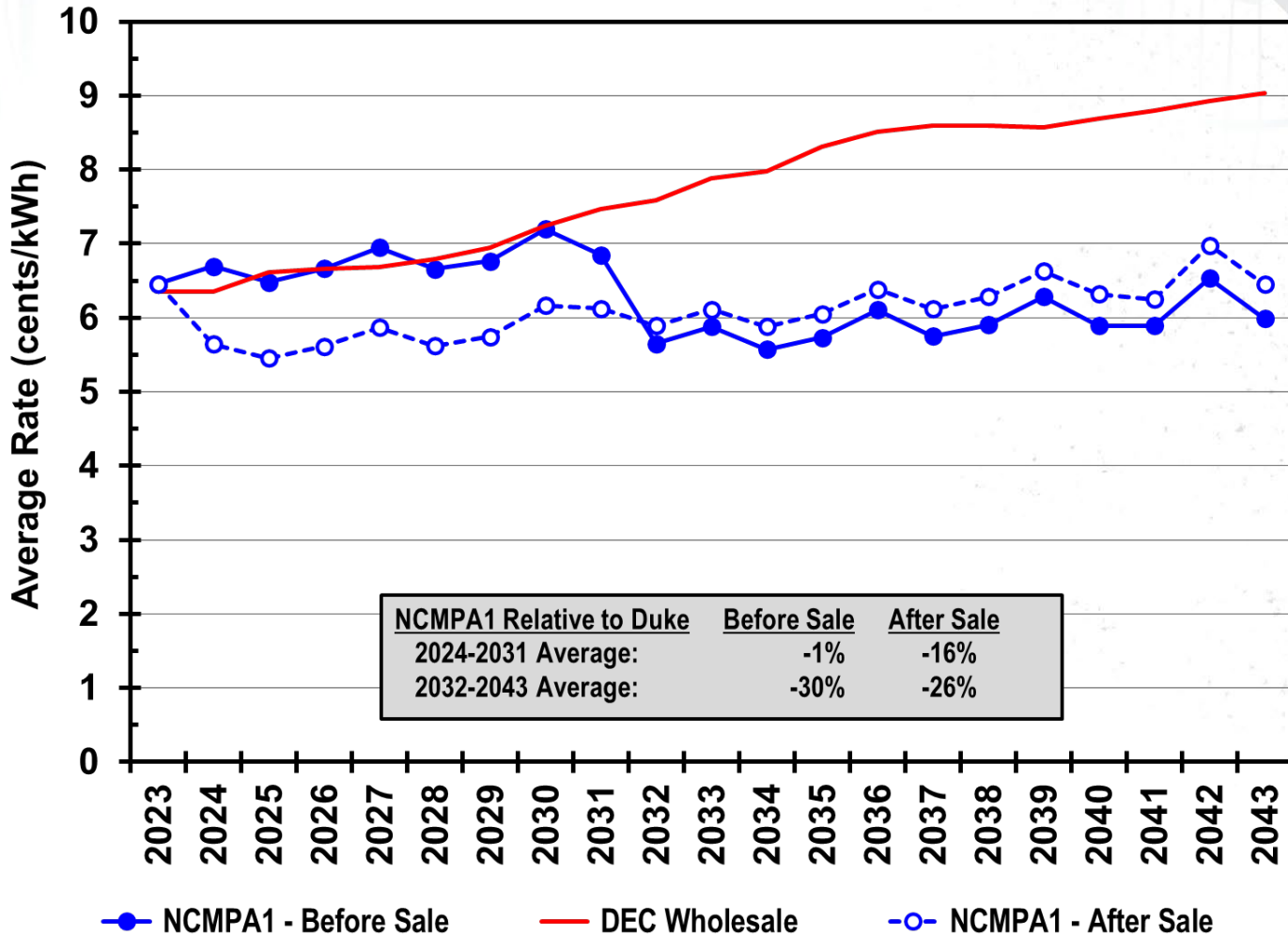
Section 2, Item 2.1



Impact of Sale on Catawba Costs – Reference Case



Impact of Sale on Competitive Position – Reference Case



DEC wholesale has not been adjusted for NCUC’s final Carbon Plan nor for the cost impacts of the announced merger of the DEC and DEP operating utility systems.

Impact of Sale on CPV Power Costs – REFERENCE CASE

| CPV Power Costs – Higher / (Lower) Due to the Sale | | | | | |
|--|------------------------------|--------------------------------------|----------------|----------------|--|
| | Initial Rate Reduction | CURRENT Catawba Operating License | | | w/ EXTENDED Catawba Operating License |
| | | 2024 – 2031 | 2032 – 2043 | 2024 – 2043 | 2024 – 2063 |
| Reference Case | | | | | |
| \$ Millions (2023\$) | | (377) | 123 | (254) | (174) |
| Percent | (15%) | (15%) | 6% | (5%) | (3%) |

Addressing Uncertainty – Probabilistic Analysis

Section 2, Item 2.1

- A range of uncertain variables/assumptions have been modeled to show the range of potential CPV power costs savings as a result of the sale
 1. Catawba Non-fuel Operating Costs
 - Most Likely = Reference Case
 - Minimum = 10% lower
 - Maximum = 50% higher
 - Higher costs more likely to be associated with lower output
 2. Catawba / McGuire Output
 - Most Likely = Reference Case
 - Minimum = 15% lower
 - Maximum = 5% higher
 - Lower output more likely to be associated with higher costs

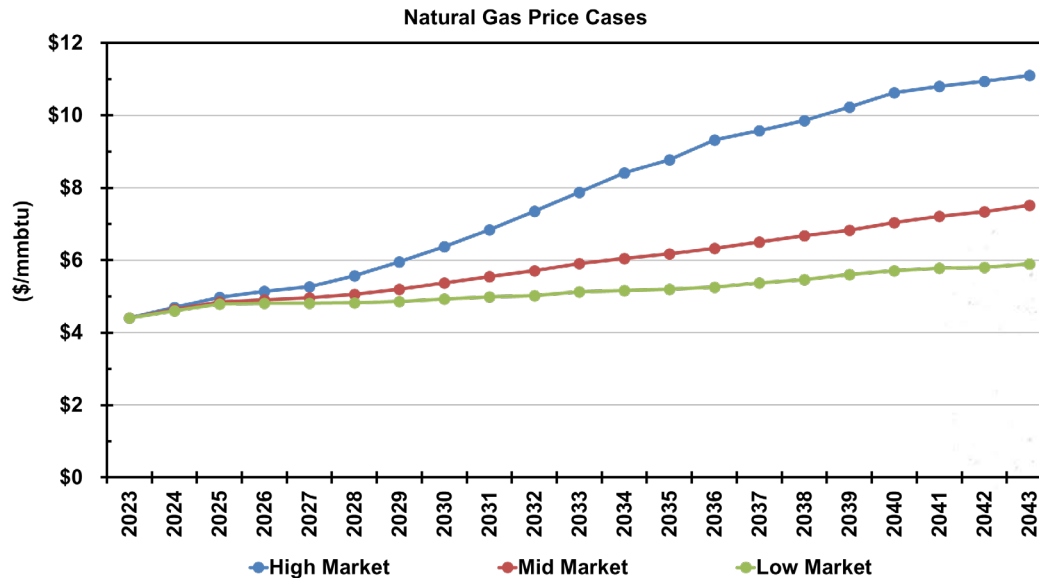
Addressing Uncertainty – Probabilistic Analysis (continued)

3. Catawba Nuclear Fuel Costs
 - Most Likely = Reference Case
 - Minimum = 5% lower
 - Maximum = 25% higher
4. Catawba Decommissioning Costs
 - Most Likely = Reference Case (\$12.6 million/year)
 - Minimum = no annual accruals
 - Maximum = 20% higher decommissioning costs

Addressing Uncertainty – Probabilistic Analysis (continued)

5. Natural Gas and Power Prices

- Defined low, mid, and high range cases



- Distribution of prices around the three defined cases
 - Mean = mid case (Reference Case)
 - 0 percentile = low case
 - 100th percentile = high case

Addressing Uncertainty – Probabilistic Analysis (continued)

6. NCMIPA1 Load Levels

- Most Likely (& Minimum) = Reference Case
- Maximum = 10% higher

7. Peaking Capacity Cost

- Most Likely (& Minimum) = Reference Case
- Maximum = 30% higher

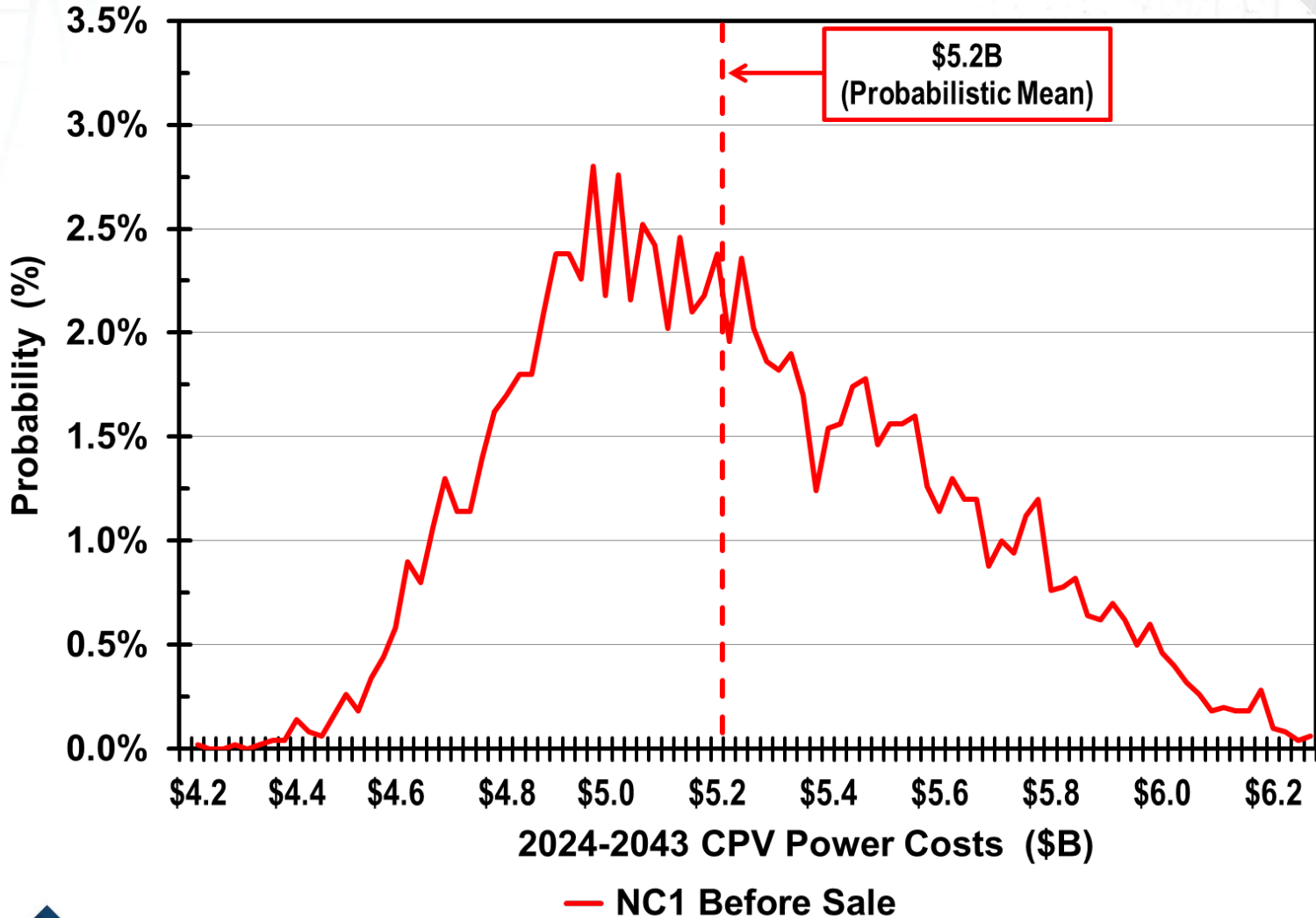
8. CO₂ legislation?

- Yes-No
- Yes = 25%; No = 75%

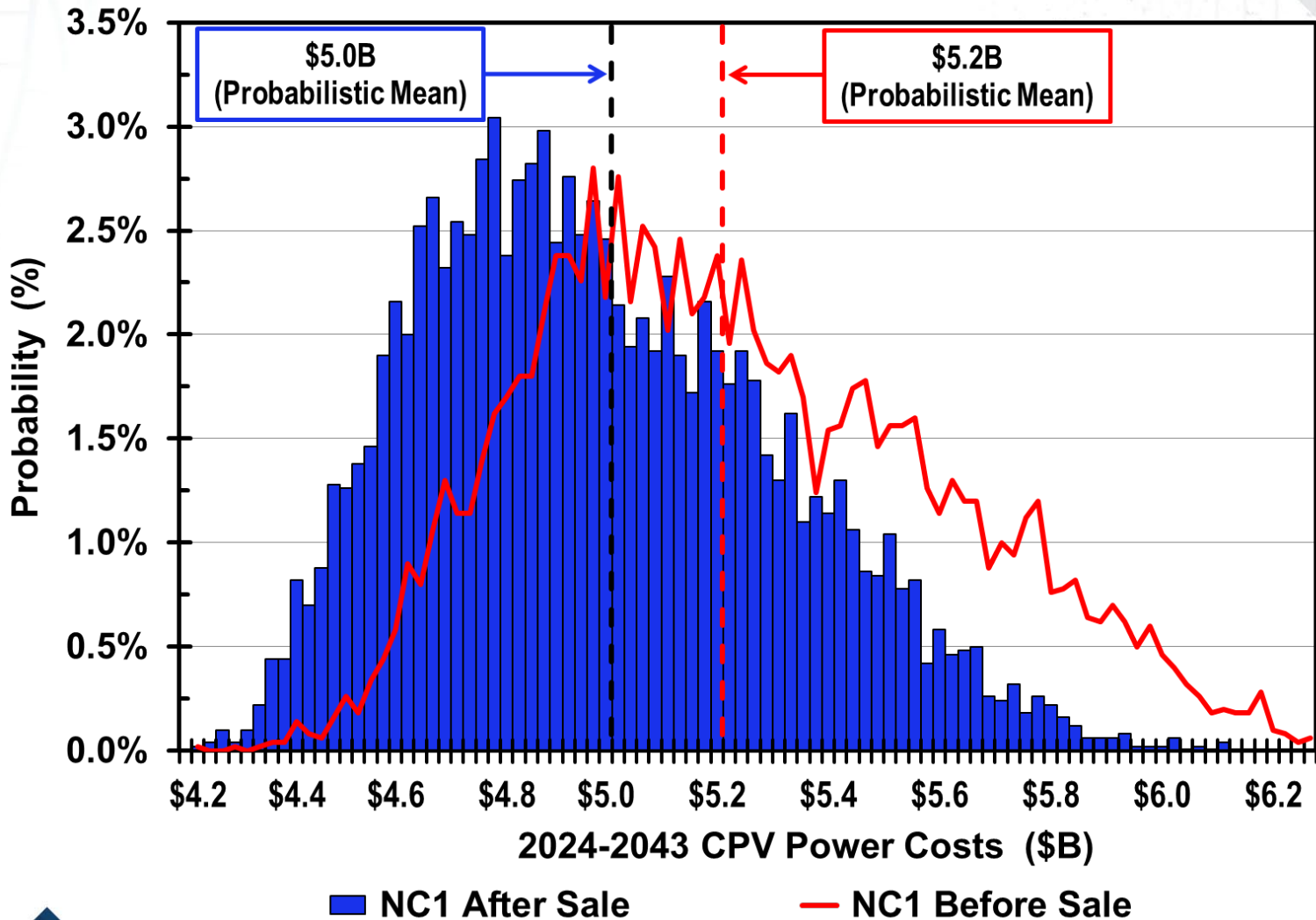
9. CO₂ Emissions Cost

- Range of carbon emissions costs
 - Minimum = \$10/ton
 - Maximum = \$50/ton

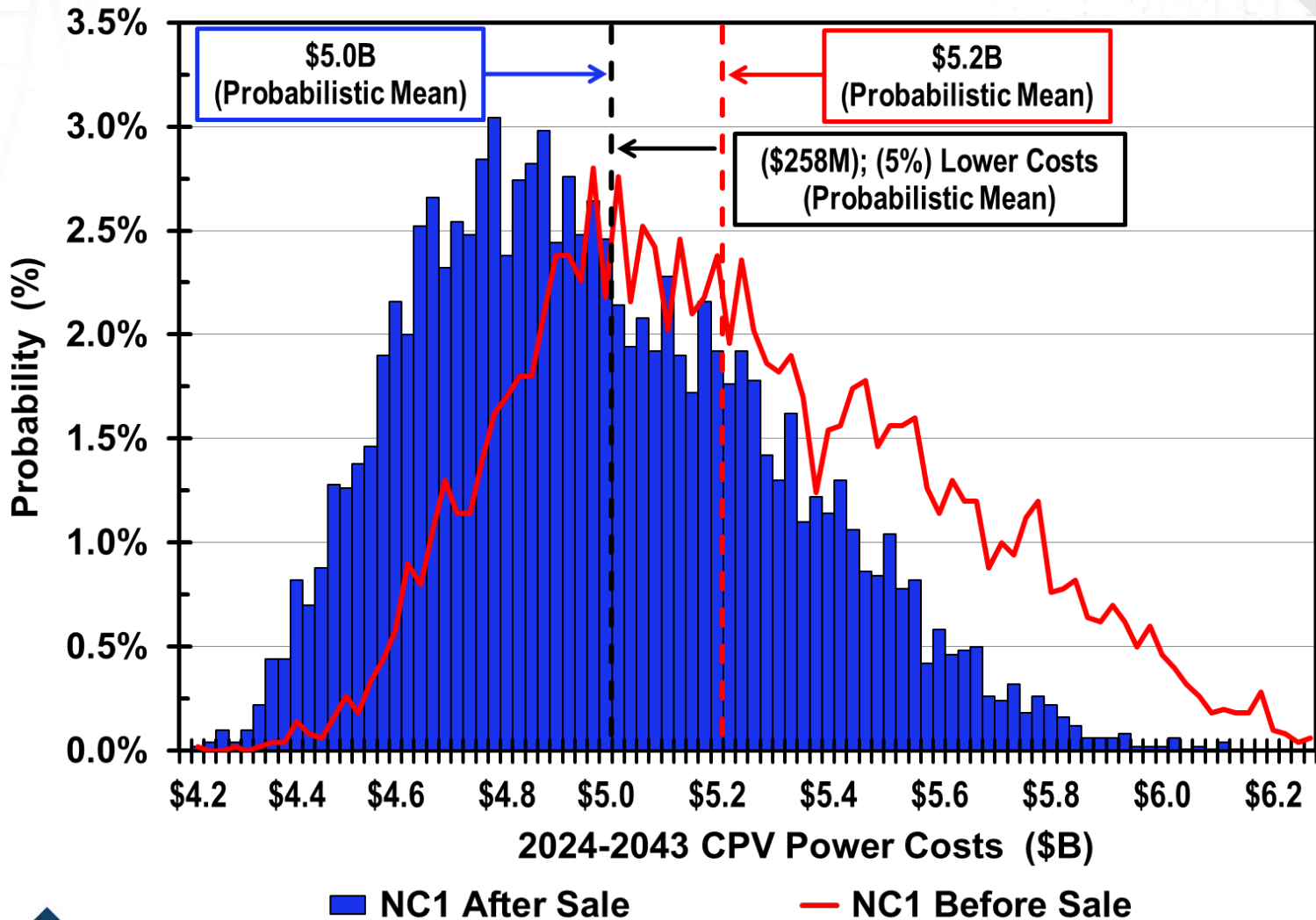
Probabilistic Analysis of Sale – Range of CPV Power Costs Before Sale 2024-2043 (Life of Asset)



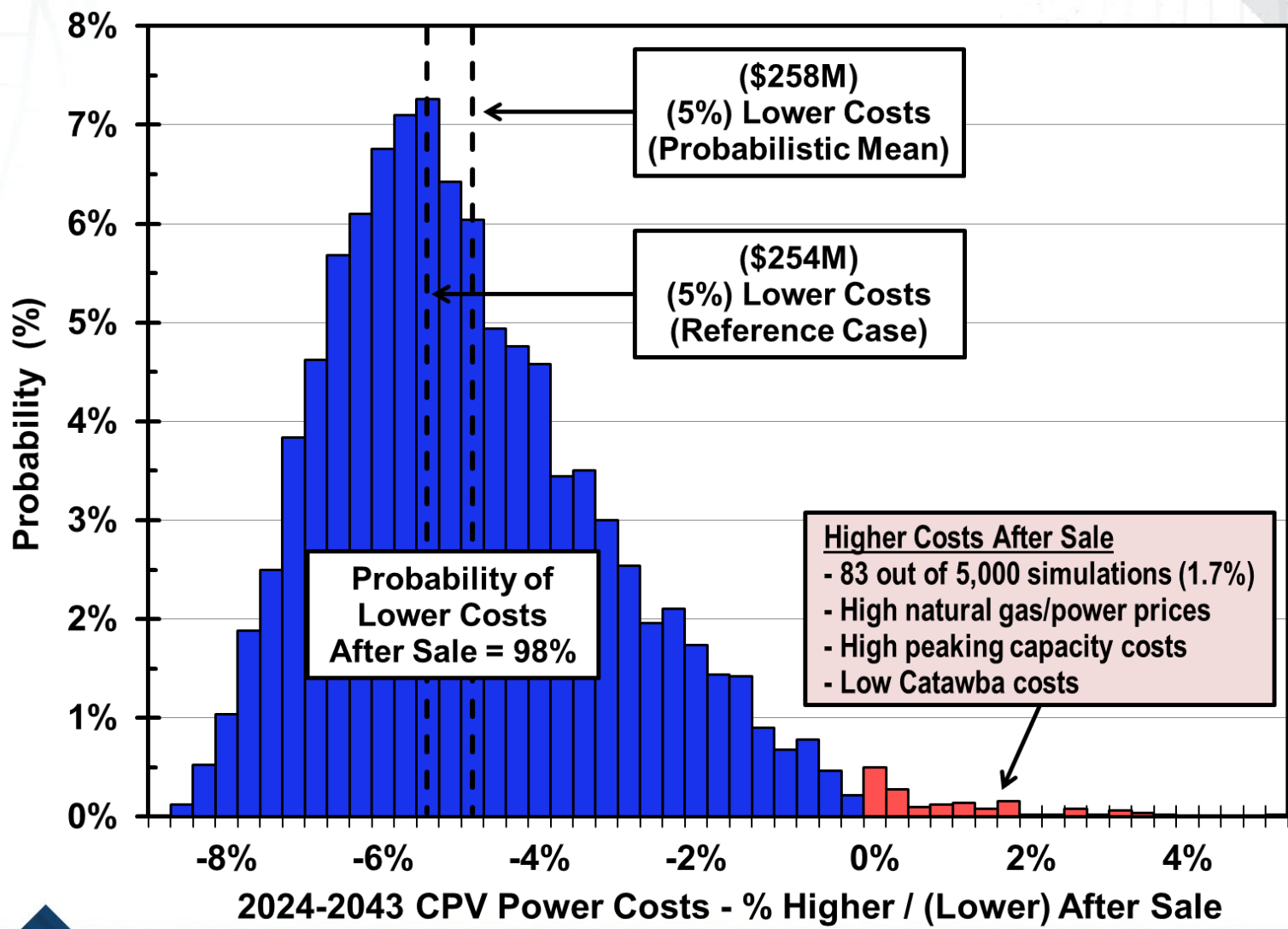
Probabilistic Analysis of Sale – Range of CPV Power Costs Before/After Sale 2024-2043 (Life of Asset)



Probabilistic Analysis of Sale – Range of CPV Power Costs Before/After Sale 2024-2043 (Life of Asset)



Probabilistic Analysis of Sale – CPV Costs % Higher/(Lower) After Sale 2024-2043 (Life of Asset)



Current Analysis of Sale – Reference Case and Probabilistic Mean

| CPV Power Costs – Higher / (Lower) Due to the Sale | | | | | |
|--|------------------------|-----------------------------------|-------------|-------------|---------------------------------------|
| | Initial Rate Reduction | CURRENT Catawba Operating License | | | w/ EXTENDED Catawba Operating License |
| | | 2024 – 2031 | 2032 – 2043 | 2024 – 2043 | 2024 – 2063 |
| Reference Case | | | | | |
| \$ Millions (2023\$) | | (377) | 123 | (254) | (174) |
| Percent | (15%) | (15%) | 6% | (5%) | (3%) |
| Probabilistic Mean | | | | | |
| \$ Millions (2023\$) | | (378) | 120 | (258) | (171) |
| Percent | (15%) | (15%) | 5% | (5%) | (2%) |

Allocation of CPV Higher / (Lower) Power Costs Associated with the Sale – Reference Case*

Section 2, Item 2.1

| Participant | CPV (\$Millions) | | |
|------------------|------------------|-----------|-----------|
| | 2024-2031 | 2032-2043 | 2024-2043 |
| Albemarle | (21.9) | 7.0 | (14.6) |
| Bostic | (0.1) | 0.0 | (0.1) |
| Cherryville | (3.4) | 1.1 | (2.3) |
| Cornelius | (4.4) | 1.4 | (2.9) |
| Drexel | (1.2) | 0.4 | (0.8) |
| Gastonia | (48.8) | 15.8 | (32.7) |
| Granite Falls | (4.3) | 1.4 | (2.9) |
| High Point | (88.0) | 28.4 | (58.7) |
| Huntersville | (20.5) | 6.9 | (14.0) |
| Landis | (3.5) | 1.1 | (2.3) |
| Lexington | (30.6) | 9.8 | (20.3) |
| Lincolnton | (4.5) | 1.4 | (3.0) |
| Maiden | (5.3) | 1.7 | (3.5) |
| Monroe | (54.1) | 18.7 | (37.6) |
| Morganton | (20.4) | 6.6 | (13.6) |
| Newton | (11.2) | 3.6 | (7.4) |
| Pineville | (10.2) | 3.6 | (7.1) |
| Shelby | (12.3) | 4.0 | (8.2) |
| Statesville | (32.2) | 10.4 | (21.6) |
| Total NCMPA1 | (377) | 123 | (254) |
| % of Power Costs | (15%) | 6% | (5%) |

* Reference Case amounts shown; probabilistic mean results not materially different.

Summary of Projected Range of Initial Reductions in Participant AR Charges – 2024/25 Timeframe

Section 2, Item 2.1

| Participant | Reflected in 1 st Demand Block | |
|---------------------|--|----------------|
| | (\$000) | (%) |
| Albemarle | (3,194) | (15.9%) |
| Bostic | (20) | (15.1%) |
| Cherryville | (498) | (14.9%) |
| Cornelius | (651) | (15.4%) |
| Drexel | (187) | (17.7%) |
| Gastonia | (7,010) | (14.6%) |
| Granite Falls | (620) | (15.5%) |
| High Point | (12,704) | (15.5%) |
| Huntersville | (2,676) | (13.5%) |
| Landis | (517) | (15.6%) |
| Lexington | (4,530) | (16.4%) |
| Lincolnton | (658) | (15.2%) |
| Maiden | (784) | (16.3%) |
| Monroe | (6,749) | (13.7%) |
| Morganton | (2,969) | (15.1%) |
| Newton | (1,609) | (16.0%) |
| Pineville | (1,223) | (12.3%) |
| Shelby | (1,812) | (15.0%) |
| Statesville | (4,645) | (15.2%) |
| Total NCMPA1 | (53,055) | (15.0%) |

Agenda

Section 2, Item 2.1

- Background and Executive Summary
- Central Transaction
- Updated Economic Analysis
- **Next Steps**

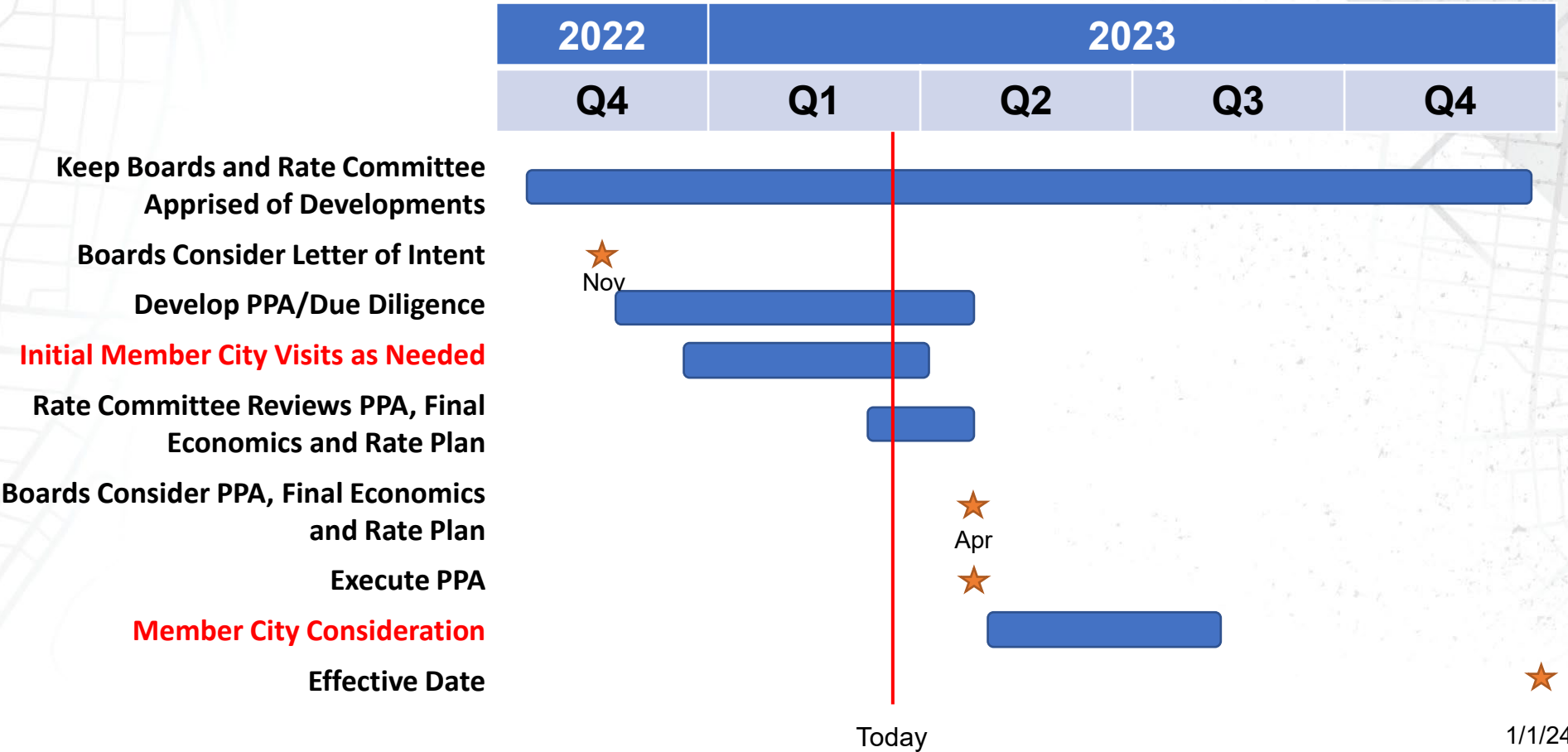
NCMPA1 Approvals

- Board of Directors of ElectricCities has the authority to sell all or part of the assets of NCMPA1 or to enter into a PPA that emulates a sale
 - NCGS §§159B-10 and 159B-11 and Resolution R-10-95 of NCMPA1
- All 19 NCMPA1 cities will be required to agree to the sale or PPA because they would deprive the cities of their rights under the Project Power Sales Agreement to their percentage of the Project Output

Next Steps – Near Term

- If Rate Committee recommends moving forward, prepare summary of PPA and related approval documents for BOC and BOD to consider in April
- Keep the Boards apprised of developments
- Continue to post information to the electronic “Data Room” to allow Members to have access to confidential presentations and draft agreements
- Reach out to NCMIPA1 Members’ Councils as needed to explain deal terms, conditions and preliminary economics in closed session
 - Please contact Amy Blinson at ablinson@electricities.org or (919)760-6354 to schedule a date

Indicative Timeline (PPA)



Recommended Rate Committee Action

Section 2, Item 2.1

- Consider recommendation to move forward with BOC/BOD approvals to enter into a Power Purchase Agreement (PPA) with Central for sale of 150 MW of Catawba Project entitlements (18% of NCMPA1's ownership share)

Appendix

Terms and Conditions of NCMPA1-Central PPA

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 1: Over 90 definitions
- Article 2: Term of Agreement
 - Effective upon execution (~ April 2023)
 - Term begins on January 1, 2024 and ends upon the expiration date of the Catawba Nuclear Station's NRC operating license
- Article 3: Conditions Precedent
 - Obligations start after all Conditions Precedent for each party have been satisfied or waived

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 3: Conditions Precedent (cont.)
 - By 12-1-23, Central to secure firm transmission service from DEC
 - By 12-1-23, NCMIPA1-Central-DEC to enter into confidentiality agreement
 - By 9-1-23, Municipalities' Consent (all 19 Participants consent to PPA)
 - By 9-1-23, execution of the amended Project Power Sales Agreements by all 19 NCMIPA1 Participants
 - By 9-1-23, confirmation that NCMIPA1 bond ratings will not be downgraded
 - Legal opinions of both NCMIPA1 and Central upon execution of PPA

Overview of PPA Terms and Conditions

Section 2, Item 2.1

■ Article 4: Sale and Purchase

- NCMPA1 shall deliver and Central shall receive 150 MW of Contract Capacity and Contract Energy from NCMPA1's Catawba Project Capacity including environmental attributes
- Charge for Contract Capacity to be levelized over the 8-year period 2024-2031
- Charge for Capital Additions (18% of NCMPA1 ownership share)
- Charge for Catawba Project Operating Costs (18% of NCMPA1 ownership share)
- Scheduling/Dispatching
- Option for Central to Participate in Power Uprate projects
- NCMPA1 offer to re-market Contract Energy

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 5: Communication, Scheduled Maintenance, Catawba Cost Projections, and Operating Committee
 - Parties to develop Operating Procedure document that sets forth the protocols NCMPA1 and Central will follow in communicating important information about the Catawba and McGuire plants
- Article 6: Interconnection and Transmission
 - Establishes point of delivery and Central responsibility for transmission from and beyond that point

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 7: Risk of Loss; Hourly Catawba Project Output
 - Title and risk of loss transfers to Central at the delivery point
 - Method of measuring hourly output from the Catawba and McGuire Units (pursuant to the Interconnection Agreement with DEC)
- Article 8: Method of Payment
 - Invoicing, billing disputes, audit rights

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 9: RTOs, Environmental Attributes
 - Addresses changes in scheduling/transmission in the event of formation of an RTO
 - Provides for additional payments to NCMPA1 in the event of legislation or regulations imposing costs on emissions of carbon dioxide at 50% of the costs, had such Contract Energy been generated by gas-fired combined cycle technology
- Article 10: Force Majeure
 - Excused performance of obligations under certain limited circumstances

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 11: Events of Default; Security Requirements
 - Default occurs upon Bankruptcy or unexcused failure to perform
 - Issues are attempted to be resolved through dispute resolution process (Article 16)
 - Failing dispute resolution allows non-defaulting party to terminate agreement
 - Eligible Collateral is required upon Material Adverse Change (deterioration of bond ratings)
- Article 12: Waivers
 - Performance, jury trial and equal bargaining

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 13: Representations and Warranties
 - Statements of fact by NCMIPA1 and Central upon which the other party is expected to rely
- Article 14: Liability of Parties
 - Describes indemnification and limitation on damages
- Article 15: Assignment and Additional Sales of Contract Capacity and Contract Energy
 - Provides protections from assignment of PPA
 - Outlines process for future additional sales to Central

Overview of PPA Terms and Conditions

Section 2, Item 2.1

- Article 16: Dispute Resolution
 - Good-faith negotiations
 - Arbitration (3-member panel) in accordance with American Arbitration Association
- Remaining Articles 17-28 are mostly “boilerplate”
- Exhibit 1: Monthly Charges Formula Methodology
 - Template-based form of invoice that identifies sources of data and development of monthly charges
- Exhibit 2: Form of Legal Opinion (NCMPA1)
- Exhibit 3: Form of Legal Opinion (Central)

CONFIDENTIAL - Assumptions Document

Regarding NCMPA1's Analysis of Transaction with Central Electric Power Cooperative, Inc.

Power Purchase Agreement for 150 MW of NCMPA1's Catawba Output

March 2023

North Carolina Municipal Power Agency Number 1 (NCMPA1) and Central Electric Power Cooperative, Inc. (Central) have negotiated a transaction which would involve Central purchasing 150 MW (about 18%) of capacity and associated energy entitlements to NCMPA1's Catawba Project through a "life of the facility" power purchase agreement (the "PPA"). This document outlines the analysis presented to the Rate Committee on March 21, 2023 along with the underlying assumptions. Such analysis will be presented to the Board of Commissioners (BOC) and Board of Directors (BOD) in April 2023.

Overview of Transaction

Central would contract for must-take (life-of-the-facility) unit contingent entitlements to nuclear capacity and energy from NCMPA1's Catawba Project. After reflecting NCMPA1's reliability exchanges with Duke Energy Carolinas, LLC ("DEC") and the other Catawba Owners, Central's power purchase would be comprised of approximately equal entitlements to four (4) nuclear generating units (Catawba Unit 1, Catawba Unit 2, McGuire Unit 1, and McGuire Unit 2).

The PPA would start on January 1, 2024 and terminate on December 5, 2043, the current date of expiration of the Nuclear Regulatory Commission's (NRC) operating license for Catawba. If the NRC were to grant an additional extension to Catawba's operating license (i.e., in connection with a "Subsequent License Renewal" (SLR) application), the PPA would continue through the extended operating life.

Central would pay a monthly capacity charge that would be levelized over the first 8 years of the term (2024-2031) based on a negotiated plant value of \$2,123/kW and an *estimated* \$201/kW component for "buy-in" to NCMPA1's existing decommissioning fund balance at year-end 2023 that would be computed recognizing the term of the PPA as a percentage of the total current operating life of Catawba, which is 58 years (1986 through 2043). Current estimate of the total levelized capacity charge (which includes a 6% carrying cost rate), as applied to 150 MW, is approximately \$56 million per year.

In addition to the levelized capacity charge described above, each month during the term, Central would pay a pro-rata (18%) share of NCMPA1's Catawba capital additions and operating costs billed under NCMPA1's Operating and Fuel Agreement with DEC, property taxes, decommissioning fund accruals, nuclear fuel amortization, and an allowance for NCMPA1's Catawba Project related administrative and general expenses.

To the extent future State or Federal legislation or regulations impose costs on emissions of carbon dioxide from fossil-fueled generation during the term of the PPA, Central would pay NCMPA1 one-half of the costs associated with the cost of carbon dioxide emissions from an equivalent amount of energy (delivered under the PPA) deemed to have been generated from a natural gas-fired combined cycle generating facility.

This transaction would offload 18% of NCMPA1's cost and nuclear concentration risk and "right-size" NCMPA1's power supply resource portfolio by eliminating NCMPA1's excess capacity over the 2024-2030

Transaction Analysis of PPA with Central for 18% of NCMPA1's Catawba Output

timeframe. In 2031 and beyond, NCMPA1 is assumed to replace the 150 MW of base-load nuclear capacity sold to Central with peaking capacity in order to meet its target reserve margins.

The Central transaction is conditioned upon unanimous consent and execution of an amendment to the Project Power Sales Agreements by all 19 NCMPA1 Participants.

Analysis of Proposed Transaction

The proposed transaction has been analyzed and evaluated based on comparing, on a cumulative present value (CPV) basis, NCMPA1's projected All Requirements power costs before and after the transaction. NCMPA1's All Requirements power cost projections before and after the transaction are also compared to a projection of the DEC system average wholesale cost of service (i.e., the competitive analysis).

More specifically, the analysis of the proposed transaction consists of comparing (i) NCMPA1's projected All Requirements power costs before the transaction (i.e., status quo; continued full ownership of NCMPA1's Catawba Project), to (ii) NCMPA1's projected All Requirements power costs after the transaction, reflecting the transaction, the reduction in surplus energy sales, and the replacement power supply costs.

For simplification purposes, it is assumed that NCMPA1's Supplemental Power Sales Agreements (SPSAs) and Project Power Sales Agreements (PPSAs) with its Participants would be extended under the same terms and conditions, from the current termination dates of 2028 and 2032 respectively, through the remaining operating life of the Catawba Project (2043). For purposes of the analysis, it is assumed that NCMPA1 will secure additional peaking resources to supplement its existing committed resources under the "before the transaction" case starting in 2032. Likewise, under the "after the transaction" case, beyond 2031 it is assumed that NCMPA1 will secure additional peaking resources to supplement its existing committed resources (and to replace the portion of Catawba sold). Given the structure of the capacity charge (8-year levelized payment), the analysis results will be reported for the periods 2024-2031 (8 years), 2032-2043 (12 years), and overall 2024-2043 (20 years). In addition, given the possibility of the NRC approving an SLR for Catawba, the analysis results show the impact on the economics of an additional 20-year operating license extension (2024-2063).

The analysis also assumes that the Interconnection Agreement is terminated at year-end 2040 (before the expiration of McGuire Unit 1's operating license in June 2041), thereby eliminating NCMPA1's obligation to supply Central with half of its Catawba output without receiving any McGuire output in return from Central. Under the termination provisions of the Interconnection Agreement, the Catawba Reliability Exchange would continue until the last Catawba Unit is retired.

The economic analysis of the proposed transaction is presented under (i) a single set of assumptions that generally are consistent with NCMPA1's rate planning (the "Reference Case") and (ii) a range of key assumptions (the "probabilistic analysis"). Given the uncertainty related to key assumptions that bear on the decision to sell a portion of NCMPA1's Catawba Project, the probabilistic analysis has been conducted to show the range of possible outcomes. The variables that will most affect NCMPA1's projected power costs under the "Before Transaction" and/or the "After Transaction" cases, and for which the probabilistic analysis will model a range of outcomes, are as follows:

1. **O&M and Capital Additions Costs at Catawba:** Based on the range of historical industry cost levels of comparable nuclear units, the analysis utilizes a triangular distribution that ranges from 10% lower to 50% higher spending levels at Catawba (as compared to levels reflected in NCMPA1's rate planning projections) phased in over a 5-year period ending in 2028, and remaining over the remaining study period.

Transaction Analysis of PPA with Central for 18% of NCMPA1's Catawba Output

2. Output of the Catawba and McGuire Nuclear Units (i.e., capacity factor): Based on the range of historical industry performance of comparable nuclear units, the analysis utilizes a triangular distribution that ranges from 15% less output to 5% more output (as compared to levels reflected in NCMPA1's rate planning projections) at each of the Catawba and McGuire stations over the study period.
3. Catawba Nuclear Fuel Costs: Given the uncertainty in world uranium markets, the analysis utilizes a triangular distribution that ranges from 5% lower to 25% higher nuclear fuel amortization costs at Catawba (as compared to levels reflected in NCMPA1's rate planning projections) phased in over a 5-year period ending in 2028, and remaining over the study period.
4. Decommissioning Funding Levels: The analysis looks at the range of outcomes for future accruals to NCMPA1's decommissioning fund around the reference case of \$12.6 million per year over the period 2024-2032. The range of outcomes modeled includes (on the low side) no additional annual accruals needed and on the high side, accruals that would support 20% higher decommissioning costs (about \$22 million per year accruals through 2043).
5. Natural Gas and Market Power Prices: Price ranges for natural gas have been based on (i) the Energy Information Administration's (EIA's) Annual Energy Outlook (AEO) 2022 (the "AEO 2022"), which provide a range of scenarios and (ii) current natural gas futures prices (which formed the mid-range). A lognormal distribution is utilized with the base/reference case prices set as the 50th percentile case and with a 20% standard deviation. Under such distribution, the low range prices are set as the zero-percentile case, and the high range prices are set as the 100th percentile case. By 2043, the approximate (delivered) prices modeled are: \$6/MMBtu (low), \$7.50/MMBtu (mid), and \$11/MMBtu (high).
6. NCMPA1 Load Levels: Triangular distribution between the current load forecast (most probable) and a 10% higher load forecast.
7. Peaking Capacity Costs beyond 2030: The capacity costs associated with NCMPA1's replacement capacity (assumed to be combustion turbine technology) beyond 2030 has been based upon a leveled tax-exempt financed capital cost structure for a new combustion turbine plant of 2030 vintage, based on EIA capital cost estimates. A range of potentially higher costs has been modeled (up to 30% higher), based upon the higher construction costs and/or an assumed taxable capital cost structure.
8. Carbon Legislation: A 25% probability has been assigned to a future whereby a carbon tax is imposed by regulatory authorities or by law on carbon emissions (CO₂) from generating plants. Consequently, a 75% probability of no carbon tax being imposed in the future has been modeled. Under the cases where a carbon tax is modeled, the tax is phased-in over the years 2025-29, with prices assigned based on a uniform distribution ranging from \$10/ton to \$50/ton (in 2025 dollars).

The probabilistic sampling of the range of variables related to the cost performance and output of Catawba and McGuire incorporates certain correlations to avoid including combinations of assumptions that are inherently inconsistent. For instance, high capacity factor output from the nuclear units would be inversely correlated to the range of operating and capital additions costs. That is, to the extent the nuclear units are projected to run well under a given sampling, it would be more likely that the operating and capital additions costs would be on the lower range, and vice versa (poor output performance would be associated with more forced and scheduled outage time and higher operating and capital additions expense).

Assumptions Related to Projections under the Before Transaction Case

NCMPA1’s All Requirements power costs are based on the underlying cost projections presented to the NCMPA1 Rate Committee on March 21, 2023. The projections reflect continued good operational performance and efficient O&M spending at Catawba that result in Catawba being a top tier nuclear plant performer in the industry, and an allowance for “refurbishment type” capital additions over the period 2026-2043. Market power prices that are largely driven by natural gas prices, and which are the basis for surplus energy sales during off-peak hours and market energy purchases during peak hours, have been updated to reflect a range of natural gas prices based, in part, on the AEO 2022 and current forward prices for natural gas.

Assumptions Related to Projections under the After Transaction Case

NCMPA1’s All Requirements power costs are based on the same underlying power cost projections assumed in the “Before Transaction” case. The key components of NCMPA1’s cost structure that will change as a result of the proposed Central PPA for 18% of NCMPA1’s Catawba Project are as follows:

1. all of NCMPA1’s allocated operating and maintenance, administrative and general, capital additions, and other cost responsibilities under the Operating and Fuel Agreement, along with property taxes, would be reduced by 18% (as a result of Central payments under the PPA);
2. the 8-year levelized capacity charge represents about two-thirds of NCMPA1’s debt service on its outstanding Bonds over the period 2024-2031.
3. The vast majority of surplus energy sales into the market would cease (e.g., over the 2024-2031 period, approximately 93% of the remaining Catawba Project energy entitlements would be used to serve NCMPA1 native load of its Participants, as compared to about 80% under the “Before Transaction” case).

Other Assumptions

The discount rate (for purposes of present value calculations) is equal to 5%, based on NCMPA1’s approximate long-term (tax-exempt) cost of money.

“By Participant” Rate Analysis

The economic analysis described above addresses all 19 Participants in the aggregate, or “on average”. Allocation of costs/benefits to individual Participants have been prepared assuming that higher/lower costs would be passed on to individual Participants based on the projection of Allocated Demands under NCMPA1’s All Requirements Wholesale Rate Schedule. Ultimately, adjustments to NCMPA1’s All Requirements Wholesale Rate Schedule would be addressed by the Rate Committee in the Spring 2024, to the extent the proposed transaction is consummated.

* * *

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF LANDIS, NORTH CAROLINA DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE TOWN OF LANDIS TO APPROVE THE POWER PURCHASE AGREEMENT BY AND BETWEEN NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1 AND CENTRAL ELECTRIC POWER COOPERATIVE, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF, AMONG OTHER DOCUMENTS, AN AMENDMENT TO THE PROJECT POWER SALES AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

WHEREAS, the Town of Landis (the “Municipality”) and North Carolina Municipal Power Agency Number 1 (“Power Agency”) entered into a Project Power Sales Agreement, Catawba Nuclear Project (the “Power Sales Agreement”), dated as of the first day of May, 1978, pursuant to which Power Agency provides, or causes to be provided, the Municipality with power and energy from the Catawba Project; and

WHEREAS, the Board of Directors of Power Agency, on May 25, 2023, adopted (i) Resolution BDR-4-23 (the “Resolution”), which, among other things, approves and authorizes the execution and delivery of a Power Purchase Agreement (the “PPA”) between the Power Agency and Central Electric Power Cooperative, Inc. (“Central”) pursuant to which Power Agency will sell and Central will purchase nuclear capacity and energy associated with a portion of Power Agency’s ownership and contractual interest in the Catawba Project, (ii) Resolution BDR-5-23 authorizing Power Agency to execute and deliver to each Participant an amendment to the Power Sales Agreement to give effect to the transactions contemplated by the PPA (“Amendment Agreement No. 3”), and, on July 28, 2023, adopted (iii) Resolution BDR-9-23 authorizing Power Agency to execute and deliver to each Participant the Agreement Regarding the Purchase and Sale of Excess Participant’s Share of Project Output (“Excess Participant’s Share Agreement”) and a

Letter of Intent Regarding the Sizing of Participant’s Shares of Catawba (Post 2023) (the “Letter of Intent”) and to take such actions as are necessary, advisable or convenient to obtain the consent of each Participant to, and the approval of each Participant of, the consummation of the transactions contemplated by the PPA, and Amendment Agreement No. 3; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency’s Consulting Engineer, to prepare an economic analysis of the projected impact of the transactions contemplated by the PPA on Power Agency’s wholesale power costs and proposed full requirements wholesale rates (the “Economic Analysis”); and

WHEREAS, Power Agency has caused to be furnished to the Municipality each of the following: (i) the PPA, (ii) Resolution BDR-4-23, (iii) Resolution BDR-5-23, (iv) Resolution BDR-9-23, (v) an executed Amendment Agreement No. 3, dated as of July 28, 2023, (vi) an executed Excess Participant’s Share Agreement, dated as of July 28, 2023, (vii) a copy of the Letter of Intent, and (viii) the Economic Analysis; and

WHEREAS, the Board of Aldermen of the Municipality (the “Governing Body”) has taken into consideration the benefits which might be achieved by (i) approving the transactions contemplated by the PPA, and (ii) approving, executing and delivering Amendment Agreement No. 3 and the Excess Participant’s Share Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Landis:

1. After due consideration to the contents of each of the preambles set forth above and to each of the documents referred to in such preambles, the Governing Body hereby finds and determines that it is in the best interests of the Municipality (i) to consent to and approve the consummation of the transactions contemplated by the PPA, and the

same is hereby consented to and approved, and (ii) to enter into Amendment Agreement No. 3 and the Excess Participant’s Share Agreement.

2. The Governing Body hereby authorizes and directs that Amendment Agreement No. 3 be executed for and on behalf of the Municipality by the Mayor and Clerk, sealed with the seal of the Municipality and delivered to the Power Agency in the form and substance of Amendment Agreement No. 3 presented at this meeting.

3. The Governing Body hereby ratifies the execution of the Excess Participant’s Share Amendment for and on behalf of the Municipality by the Mayor and Clerk at a duly called regular meeting held on August 14, 2023, sealed with the seal of the Municipality and delivered to the Power Agency in the form and substance of the Excess Participant’s Share Agreement presented at the duly called regular meeting of the Governing Body on August 14, 2023 and at this meeting.

4. The Governing Body hereby directs the Clerk to furnish or cause to be furnished to Power Agency a certified copy of this ordinance together with the executed Amendment Agreement No. 3 and the Excess Participant’s Share Agreement.

5. The Governing Body hereby directs the Clerk to file with the minutes of this meeting (i) the PPA, (ii) Resolution BDR-4-23, (iii) Resolution BDR-5-23, (iv) Resolution BDR-9-23, (v) the proposed Amendment Agreement No. 3, (vi) the proposed and executed Excess Participant’s Share Agreement, (vii) the copy of the Letter of Intent, and (viii) the Economic Analysis as presented and available at this meeting.

6. This Ordinance shall become effective upon its adoption.

ADOPTED this _____ day of _____, 2023.

Mayor

ATTEST:

Clerk

(SEAL)

CLERK’S CERTIFICATE

I, _____, Clerk of the Town of Landis, North Carolina, (the “Municipality”), DO HEREBY CERTIFY as follows:

1. To the date of this Certificate, the Board of Aldermen of the Municipality (“the Governing Body”) has adopted no ordinance, resolution or rule regulating the procedure to be followed or observed by the Governing Body in the adoption of ordinances or resolutions which is not included in the Municipality’s Charter, as amended to date.

2. As of the date of this Certificate and the date of introduction and adoption of the Ordinance hereinafter described, the Governing Body of the Municipality consisted of 4 members, all of whom have been duly elected and qualified.

3. Meredith Bare Smith was the duly elected and qualified Mayor of the Municipality at the time of the introduction and adoption of the Ordinance hereinafter described and at the time of the execution of the documents hereinafter described by the Municipality.

4. The undersigned Clerk has been duly appointed by the Governing Body as Clerk of the Municipality to hold office at the pleasure of the Governing Body, and the appointment as Clerk predated the introduction and adoption of the Ordinance hereinafter described and remains in full force and effect.

5. The seal, an impression of which appears below, is the corporate seal adopted by the Municipality.

6. The undersigned, as Clerk, is charged with the duty of keeping custody of the minutes and official records of the proceedings of the Governing Body.

7. At a special meeting of the Governing Body conducted on the 24th day of August, 2023, the ordinance entitled “AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF LANDIS, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST

INTERESTS OF THE TOWN OF LANDIS TO APPROVE THE POWER PURCHASE AGREEMENT BY AND BETWEEN NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1 AND CENTRAL ELECTRIC POWER COOPERATIVE, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF, AMONG OTHER DOCUMENTS, AN AMENDMENT TO THE PROJECT POWER SALES AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1,” a full, true and complete copy of which is attached hereto and made a part of this Certificate (the “Ordinance”), was introduced and, after consideration by the Governing Body, was duly adopted by the Governing Body by a vote of _____ yeas and _____ nays. The Ordinance was thereafter duly recorded in the ordinance book of the Municipality and the municipal journal, if any. A copy of the minutes of said meeting is attached hereto.

8. The meeting referred to in this Certificate was a duly called and held special meeting of the Governing Body, open to the public, and a quorum of the Governing Body was present and acting throughout; the copy of the minutes attached hereto has been compared by the undersigned with the original thereof that is on file and of record in the office of the undersigned and it is a full, true and complete copy of said original; the copy of the Ordinance attached hereto has been compared by the undersigned with the original thereof that is on file in the ordinance book (and municipal journal, if any) and it is a full, true and complete copy of said original. The Ordinance has not been amended, modified, superseded or repealed and is in full force and effect as of the date hereof.

9. Amendment Agreement No. 3 and the Excess Participant’s Share Agreement referred to in the Ordinance has been filed in the Clerk’s office with the minutes of the proceedings at which the Ordinance was adopted.

10. Each execution copy of Amendment Agreement No. 3 and the Excess Participant's Share Agreement furnished to North Carolina Municipal Power Agency Number 1 by the undersigned has been duly executed by the Mayor of the Municipality and attested by the undersigned as Clerk of the Municipality, all pursuant to authority granted by the Ordinance. Further, the execution copy of the Excess Participant's Share Agreement was duly executed by the Mayor of the Municipality and attested by the undersigned as Clerk of the Municipality at a duly called and held regular meeting of the Governing Body on August 14, 2023, which was open to the public and a quorum of the Governing Body was present and acting throughout. A copy of the minutes from the regular meeting of the Governing Body held on August 14, 2023 is attached hereto and has been compared by the undersigned with the original thereof that is on file and of record in the office of the undersigned and it is a full, true and complete copy of said original.

11. Since June 6, 2005, the Governing Body of the Municipality has not amended, revised or altered the Charter of the Municipality pursuant to legislative action, Section §160A-101 et seq. of the North Carolina General Statutes, or in any other manner whatsoever, except as such may have been amended, revised or altered by the document(s), if any, attached hereto; a copy of such document(s) was compared by me with the original(s) thereof on file and of record in the offices of the undersigned and it is a full, true and complete copy of said original(s); and such document(s) has not been amended, modified, superseded or repealed (except as reflected in the documents attached hereto) and is/are in full force and effect as of the date of this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the Town of Landis, this the _____ day of _____, 2023.

Clerk

(Impress Seal Here)

Attachments:

Ordinance

Minutes

Charter Amendments, if any

[Municipal Attorney’s Letterhead]

North Carolina Municipal Power Agency Number 1
 1427 Meadow Wood Blvd.
 Raleigh, NC 27604

Greetings:

In connection with the Amendment Agreement No. 3 and the Agreement Regarding the Purchase and Sale of Excess Participant’s Shares, each by and between the **Town of Landis** (the Municipality”) and North Carolina Municipal Power Agency Number 1 (“Power Agency”), dated as of July 28, 2023, (collectively, the “Member Agreements”), I have examined (i) the Constitution and laws of the State of North Carolina and the Charter of the Municipality, (ii) the Member Agreements, (iii) an Ordinance entitled “AN ORDINANCE OF THE **BOARD OF ALDERMEN OF THE TOWN OF LANDIS, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE TOWN OF LANDIS TO APPROVE THE POWER PURCHASE AGREEMENT BY AND BETWEEN NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1 AND CENTRAL ELECTRIC POWER COOPERATIVE, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF, AMONG OTHER DOCUMENTS, AN AMENDMENT TO THE PROJECT POWER SALES AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1**” (the “Ordinance”), approving the terms and provisions of the Member Agreements and authorizing the execution and delivery thereof, and the proceedings of the **BOARD OF ALDERMEN OF THE TOWN OF LANDIS** had and taken upon such adoption, (iv) such contracts, instruments and documents to which the Municipality is a party and which might affect the validity or the operation of the Member Agreements, and (v) such other instruments and documentation as I have deemed necessary in order to render the opinions set forth herein.

It is my opinion that:

- (a) The Municipality is a municipal corporation duly created and validly existing under and pursuant to the Constitution and laws of the State of North Carolina;
- (b) The Municipality has power and is authorized to enter into, execute and deliver the Member Agreements and carry out and perform the obligations of the Municipality thereunder;
- (c) The Ordinance has been duly adopted by the governing body of the Municipality, has not been amended, rescinded or repealed and is in full force and effect. The meeting at which the Ordinance was adopted was duly called, duly held, and all applicable laws respecting notice of such meeting were complied with fully;
- (d) The Member Agreements have been duly authorized, executed and delivered by the Municipality and constitute valid and binding agreements of the Municipality, enforceable in accordance with their terms;

(e) The authorization, execution and delivery by the Municipality of the Member Agreements and compliance with all terms and provisions thereof to be carried out and performed by the Municipality thereunder do not conflict with and are not in violation of any law of the State of North Carolina, including any of the provisions, terms and conditions of any ordinance, resolution, rule, by-law or motion of the Municipality;

(f) The authorization, execution and delivery by the Municipality of the Member Agreements and compliance with all terms and provisions thereof to be carried out and performed by the Municipality thereunder will not be a breach of, or constitute a default under, the terms and conditions of any indenture, loan agreement, mortgage, resolution, ordinance, contract, or other instrument, agreement or document to which the Municipality is a party or may be bound; and

(g) To my knowledge, information and belief there are no burdensome restrictions or conditions of any unusual character in any indenture, loan agreement, mortgage, resolution, ordinance or contract or other instrument, agreement of document to which the Municipality is a party or may be bound which impairs its ability to discharge its obligations under and carry out the terms of the Member Agreements.

In addition, to my knowledge, information and belief, there is not litigation pending or threatened against the Municipality which, if decided unfavorably to the interests of the Municipality, would materially adversely affect the validity of the Member Agreements or the financial affairs or the Municipality's electric system.

The opinion expressed in paragraph (d) above is subject to applicable bankruptcy, insolvency, reorganization, moratorium, and other laws heretofore or hereafter affecting creditors' rights and is subject to the principles of equity relating to or affecting the enforcement of obligations, whether such enforceability is considered in equity or at law.

Very truly yours,

Town of Landis Attorney

**Execution Copy
Town of Landis**

**NORTH CAROLINA MUNICIPAL POWER AGENCY
NUMBER 1**

**Agreement Regarding
the Sale and Purchase of
Excess Participant's Share
of
Project Output**

Dated as of July 28, 2023

NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

**AGREEMENT REGARDING
THE SALE AND PURCHASE OF
EXCESS PARTICIPANT'S SHARE
OF
PROJECT OUTPUT**

THIS AGREEMENT REGARDING THE SALE AND PURCHASE OF EXCESS PARTICIPANT'S SHARE OF PROJECT OUTPUT is dated as of the 28th day of July, 2023, and entered into by North Carolina Municipal Power Agency Number 1 (including successors and permitted assigns, "Power Agency") and the municipality of the State of North Carolina (including successors and permitted assigns, the "Participant") that has executed this Agreement Regarding the Sale and Purchase of Excess Participant's Share of Project Output (as supplemented and amended, the "Agreement").

WHEREAS, the parties hereto are parties to a Project Power Sales Agreement, Catawba Nuclear Project, dated as of May 1, 1978, as amended by an Amendment Agreement dated as of October 31, 1984, an Amendment Agreement No. 2, dated as of April 15, 2005 and an Amendment Agreement No. 3, dated as of the date hereof (as amended, the "Project Power Sales Agreement"), and Power Agency has entered into similar agreements with 18 other municipalities of the State of North Carolina (collectively with the Participant, the "Participants", and such other agreements, collectively with the Project Power Sales Agreement, the "Project Power Sales Agreements"); and

WHEREAS, pursuant to the terms and conditions of the Project Power Sales Agreements, Power Agency sells and each Participant purchases its Participant's Share of Project Output; and

WHEREAS, for any given Participant, from time to time, (i) a portion of its entitlement to Project Output under the Project Power Sales Agreement may exceed the power and energy required by it from the Project, or (ii) its entitlement to Project Output under the Project Power Sales Agreement may be less than the power and energy required by it from the Project; and

WHEREAS, Power Agency and the Participants have been engaged in discussions regarding the sale of that portion of a given Participant's entitlement to Project Output under the Project Power Sales Agreement that exceeds the power and energy required by it from the Project to one or more other Participants whose entitlement to Project Output is less than the power and energy required by it from the Project, such that, during each year for the remaining term of the Project Power Sales Agreements, Power Agency will sell and each Participant will purchase an amount of Project Output equal to such Participant's Load Ratio Share of Project Output; and

WHEREAS, Power Agency and the Participants desire to memorialize such discussions by this Agreement and similar agreements entered into by each of the other Participants; and

WHEREAS, by letter dated December 7, 2001, the Participant, pursuant to the terms and conditions of Section 11 of the Project Power Sales Agreement, requested that Power Agency use

its best efforts to sell or exchange from time to time all or a portion of each of their entitlements to Project Output that is in excess of each of their respective power and energy requirements (each an "Authorization Agreement"); and

NOW, THEREFORE, pursuant to and subject to the terms and conditions of Section 11 of the Project Power Sales Agreement, the Participant's Authorization Agreement and this Agreement, the parties hereto mutually agree as follows:

Section 1. Definitions. Terms not defined herein shall have the meanings assigned thereto by the Project Power Sales Agreement.

(a) "Load Ratio Share" means, with respect to the Participant, a 50/50 weighting of the following two percentages:

- (1) the percentage that is equal to the sum of the Participant's Monthly Non-Coincident Peak Demand during the previous five (5) years, divided by the sum of all Participants' Monthly Non-Coincident Peak Demands during the same five (5) years; and
- (2) the percentage that is equal to the sum of the Participant's Monthly Energy during the previous five (5) years, divided by the sum of all Participants' Monthly Energy during the same five (5) years.

For purposes of determining the foregoing percentages, the Load Ratio Share shall be calculated based on loads over the five (5) year period (60 months) ending on July 1 of the year in which the calculation is made and demand and energy values shall be reduced by Southeastern Power Administration (SEPA) capacity allocations (in kW).

(b) "Monthly Non-Coincident Peak", for any month, shall mean the Participant's highest integrated clock hour metered demands (in kW) recorded during such month, reduced by the amount of such Participant's SEPA capacity allocation (in kW).

(c) "Monthly Energy", for any month, shall mean the total energy requirements (in kWh) of the Participant metered during such month, reduced by the amount of SEPA energy deemed to have been delivered (in kWh).

Section 2. Purpose and Intent of Sales and Purchases. It is the purpose and intent of this Agreement that, following the sales and purchases pursuant to Sections 4 and 5 and the other provisions hereof, Section 11 of the Project Power Sales Agreement, and the Participant's Authorization Agreement, the Participant's purchase of Project Output in each calendar year will equal its Load Ratio Share. Power Agency may take such action as may be necessary or advisable in furtherance of the foregoing purpose and intent.

Section 3. Determination of Load Ratio Share. Not later than December 1 of each calendar year during the remaining term of the Project Power Sales Agreement, commencing on December 1, 2023 for the calendar year 2024, Power Agency shall calculate and deliver to the

Participant a written determination of its Load Ratio Share of Project Output for the ensuing calendar year.

Section 4. Sale of Excess Participant's Participant's Share. To the extent that Power Agency determines for any given Participant, pursuant to Section 2 hereof, for any calendar year that its Participant's Share is greater than its Load Ratio Share, Power Agency, beginning on January 1 of that year and continuing thereafter during such calendar year, shall sell to other Participants that portion of the Participant's Participant's Share of Project Output that is determined to exceed the Participant's Load Ratio Share of Project Output ("Decreased Allocation of Project Output") such that its share of Project Output thereafter (until revised in accordance herewith) is equal to its Load Ratio Share of Project Output, as determined in the manner set forth herein. Notwithstanding the foregoing, each Participant that sells a Decreased Allocation of Project Output pursuant to this Section 4 shall remain liable to Power Agency to pay the full amount of its Participant's Share of Monthly Project Power Costs; provided, however, that such liability shall be discharged to the extent that Power Agency receives payment for the Decreased Allocation of Project Output from the purchaser or purchasers therefor.

Section 5. Purchase of Excess Participant's Participant's Share. To the extent that Power Agency determines for any given Participant, pursuant to Section 2 hereof, for any calendar year that its Participant's Share is less than its Load Ratio Share, Power Agency, beginning on January 1 of that year and continuing thereafter during such calendar year, shall purchase from other Participants and sell to such Participant an amount of power and energy from other Participants (the "Increased Allocation of Project Output") such that its share of Project Output thereafter (until revised in accordance herewith) is equal to its Load Ratio Share of Project Output, as determined in the manner set forth herein. Each Participant that purchases an Increased Allocation of Project Output pursuant to this Section 5 shall be liable to Power Agency to pay that portion of Monthly Project Power Costs attributable to the Increased Allocation of Project Output purchased by such Participant.

Section 6. Remedies. In the event of a breach, or a threatened or attempted breach, of this Agreement, either party shall, in addition to any other legal and equitable rights and remedies, be entitled to seek injunctive relief, or a decree of specific performance, and shall not be required to post bond in connection with any such injunction. Damages recovered by either party as a result of a breach of this Agreement shall be limited to actual damages.

Section 7. Applicable Law. This Agreement is made under and shall be governed by the law of the State of North Carolina. Headings herein are for convenience only and shall not influence the construction hereof.

Section 8. Preaudit Certification. Execution of this Agreement by the finance officer of the Participant shall constitute a certification of such finance officer that, to the extent this Agreement requires the Participant to satisfy a financial obligation during the Participant's fiscal year in which the Effective Date occurs, this Agreement has been preaudited in the manner required by the N.C. Local Government Budget and Fiscal Control Act.

Section 9. Attorney's Approval. Execution of this Agreement by the Town Attorney of the Participant shall constitute compliance with the provisions of Section 5.2 of the Participant's Charter that requires Town Attorney to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Participant may be concerned.

Section 10. Effective Date, Term and Amendments. This Agreement shall become effective upon execution and delivery of similar agreements by Power Agency and each Participant and continue in effect for the remaining term of the Project Power Sales Agreement. No amendment, modification or supplement to this Agreement shall be effective unless approved or consented to by each Participant that has signed an agreement similar to this Agreement.

Section 11. Execution in Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute a single agreement of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement Regarding the Sale and Sale Purchase of Excess Participant's Share of Project Output by authority of their respective governing bodies duly given.

Executed this ____ day of _____, 2023.

[Signatures on following page]

TOWN OF LANDIS

By: _____
Mayor

Attest:

For purposes of Section 8 only:

Town Clerk

Finance Officer

(SEAL)

For purposes of Section 9 only:

Town Attorney

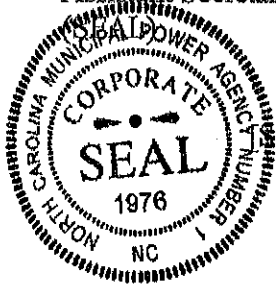
Executed this 10 day of AUGUST, 2023.

NORTH CAROLINA MUNICIPAL
POWER AGENCY NUMBER 1

By: [Signature]
Chief Executive Officer

Attest:

[Signature]
Assistant Secretary



Signature Page of Agreement Regarding the Sale and Purchase of
Excess Participant's Share of Project Output]

NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

LETTER OF INTENT REGARDING THE SIZING OF PARTICIPANT'S SHARES OF CATAWBA (POST 2032)

THIS LETTER OF INTENT REGARDING THE SIZING OF PARTICIPANT'S SHARES OF CATAWBA (POST 2032) is dated as of the 31st day of July, 2023, and sets forth North Carolina Municipal Power Agency Number 1's ("Power Agency") present intention regarding the basis for establishing Participant's Shares in connection with offering new project power sales agreements ("ppsa") to Power Agency's members to be effective January 1, 2033, upon expiration of Power Agency's existing Project Power Sales Agreements.

Background

Since 1983, Power Agency has sold All Requirements Bulk Power Supply to its nineteen (19) Participants pursuant to two separate power sales agreements, the Project Power Sales Agreement ("PPSA") related to the Catawba Project and the Supplemental Power Sales Agreement ("SPSA"). The PPSA sets forth the "take-or-pay" obligation of each Participant for the purchase of entitlements to output from Power Agency's ownership in the Catawba Project. Each PPSA terminates effective January 1, 2033 (50 years from January 1, 1983, which was the estimated date of commercial operation of Catawba Unit 2). The SPSA provides for the purchase and sale of All Requirements Bulk Power Supply on a "take-and-pay" basis by (i) integrating the Catawba Project with Power Agency's portfolio of supplemental and backstand resources and (ii) making provisions for transmission, load following, and other ancillary services necessary to deliver power to the Participants' delivery points. Such all requirements service is sold pursuant to appropriate "load-based" rates and charges established by Power Agency. The SPSAs are set to terminate on May 1, 2028 (50 years from its May 1, 1978, effective date).

Given that Power Agency's Catawba Project is licensed to operate well beyond 2032¹ and that Power Agency has committed supplemental power resources that extend past May 1, 2028, it has been and continues to be Power Agency's intention to offer to the Participants new power sales agreements (both Catawba Project and Supplemental) beyond their current termination dates. Participants will have the option to enter into new supplemental agreement that would start on May 1, 2028, as well as new Catawba Project agreements (i.e., ppsa) that would commence on January 1, 2033.

Power Agency's Participants' Participant's Shares under their respective existing PPSAs were established in the late 1970s based on the load of each Participant at that time. In a number of cases, those Participant's Shares are not representative of the Participants' relative current load levels (i.e., Load Ratio Shares) that have resulted from a wide range of load growth patterns among the Participants over the last 50 years.

Table 1 below illustrates the disparities between the Participants' Participant's Shares specified in the existing PPSAs and the current "Load Ratio Share" measure. The representative

¹ Catawba's operating license currently extends through December 5, 2043.

load ratio share that Power Agency uses for purposes of the Allocated Demand component of its All Requirements Wholesale Rate Schedule is based on an equal weighting of monthly non-coincident peak demands and billing energies over a historical 5-year period (“Allocated Demand” percentages).

Table 1

| | Participant Shares under Existing PPSAs | Current Load Ratio Shares (the basis for Allocated Demands effective 7-1-23) |
|---------------------|--|---|
| Participant | (%) | (%) |
| Albemarle | 7.6% | 6.1% |
| Bostic | 0.1% | 0.0% |
| Cherryville | 1.6% | 1.0% |
| Cornelius | 0.4% | 1.2% |
| Drexel | 0.5% | 0.4% |
| Gastonia | 17.1% | 13.4% |
| Granite Falls | 0.9% | 1.2% |
| High Point | 19.0% | 23.9% |
| Huntersville | 0.6% | 4.9% |
| Landis | 1.1% | 1.0% |
| Lexington | 12.9% | 8.6% |
| Lincolnton | 1.6% | 1.3% |
| Maiden | 1.3% | 1.5% |
| Monroe | 10.0% | 12.4% |
| Morganton | 6.7% | 5.7% |
| Newton | 2.1% | 3.0% |
| Pineville | 0.5% | 2.3% |
| Shelby | 6.0% | 3.5% |
| Statesville | 9.9% | 8.8% |
| Agency Total | 100.0% | 100.0% |

The proposed 150 MW sale of Catawba Project output (18%) to Central Electric Power Cooperative, Inc. (“Central”) will effectively limit the aggregate Participants’ entitlement to Power Agency’s Catawba Project output to 82% over the remaining operating life of the Catawba Project. In connection with that sale, the Participants have requested that Power Agency set forth a non-binding commitment relative to the basis for new member entitlements (or shares) of the Catawba Project Output that would be incorporated into the proposed new ppsa, effective on January 1, 2033.

Power Agency Commitment

In order to provide Participants some certainty relative to considering their future power supply options, specifically as it relates to consenting to Power Agency’s proposed sale of 18% of its Catawba Project output to Central, Power Agency commits to propose certain principles in connection with the offering of the new ppsa that would replace the existing PPSAs on January 1, 2033.

Power Agency’s commitment, regarding the new ppsa, is to propose calculating new Participant’s Shares that reflect the actual Load Ratio Shares of the Participants, based on the same methodology used to compute Allocated Demands under Power Agency’s All Requirements Wholesale Rate Schedule. The methodology to compute Load Ratio Share, as reflected in Power Agency’s Wholesale Rate Schedule, is as follows.

“Load Ratio Share” means, with respect to the Participant, a 50/50 weighting of the following two percentages:

- (1) the percentage that is equal to the sum of the Participant’s Monthly Non-Coincident Peak Demand during the previous five (5) years divided by the sum of all Participants’ Monthly Non-Coincident Peak Demands during the same five (5) years; and
- (2) the percentage that is equal to the sum of the Participant’s Monthly Energy during the previous five (5) years divided by the sum of all Participants’ Monthly Energy during the same five (5) years.

For purposes of these percentages, demand and energy values shall be reduced by SEPA allocations.

Power Agency’s commitment to propose computing Participant’s Shares under the new ppsa also would include the practice of updating each Participant’s Load Ratio Share annually (based on the most recent 5 years of historical actual loads), which is consistent with the current Allocated Demand methodology utilized under Power Agency’s All Requirements Wholesale Rate Schedule, with one exception. That exception is related to Power Agency’s practice of implementing annual changes in Allocated Demand, effective July 1 of each year, utilizing load data from the previous five calendar years. For purposes of assigning Participant’s Shares for each calendar year starting in the year 2033, the Load Ratio Share calculation would be based on the 5-year (60 month) period ending July 1 of the prior year.

Table 2 below shows the current Load Ratio Shares (used in the current Allocated Demand calculation that will become effective July 1, 2023) as well as the projected Load Ratio Shares that would form the basis of the proposed Participant Shares in 2033 based on Power Agency’s current load forecast.² The Load Ratio Share percentage increases and decreases shown over the 10-year period reflect the relative projected loads of the 19 Participants. Table 2 also shows the allocation

² These projected Load Ratio Shares are shown for illustration only and are based on Power Agency’s demands and energy forecasts of each of the Participants. Assuming all 19 Participants execute the new ppsa that would become effective January 1, 2033, actual Load Ratio Shares applicable to the year 2033 under the approach Power Agency commits to propose would be based on actual demands and energy consumption over the prior 5-year period (July 1, 2027 through June 30, 2032).

of Catawba Project capacity (i.e., the Participant Share of output entitlement) after the proposed sale to Central, based upon such projected Load Ratio Shares.

Table 2

| | Current Load Ratio Shares (the basis for Allocated Demands effective 7-1-23) | Projected Load Ratio Shares Effective 1-1-2033* | Allocated Catawba Capacity After Sale to Central |
|---------------------|---|--|---|
| Participant | (%) | (%) | (MW) |
| Albemarle | 6.1% | 5.8% | 39.3 |
| Bostic | 0.0% | 0.0% | 0.2 |
| Cherryville | 1.0% | 0.9% | 5.8 |
| Cornelius | 1.2% | 1.1% | 7.5 |
| Drexel | 0.4% | 0.3% | 2.1 |
| Gastonia | 13.4% | 13.3% | 90.5 |
| Granite Falls | 1.2% | 1.1% | 7.4 |
| High Point | 23.9% | 22.4% | 152.4 |
| Huntersville | 4.9% | 5.9% | 39.9 |
| Landis | 1.0% | 0.9% | 6.0 |
| Lexington | 8.6% | 7.6% | 52.1 |
| Lincolnton | 1.3% | 1.1% | 7.6 |
| Maiden | 1.5% | 1.3% | 9.0 |
| Monroe | 12.4% | 15.9% | 108.4 |
| Morganton | 5.7% | 5.3% | 36.0 |
| Newton | 3.0% | 2.8% | 19.2 |
| Pineville | 2.3% | 3.0% | 20.2 |
| Shelby | 3.5% | 3.1% | 21.3 |
| Statesville | 8.8% | 8.3% | 56.7 |
| Agency Total | 100.0% | 100.0% | 681.5 |

* Based on forecasted loads during prior 5-year period.

By committing to a “rolling” Load Ratio Share based Participant’s Share of the Catawba Project starting in 2033 and continuing over the remaining life of the Catawba Project, Participants can be assured that their entitlement to the Catawba Project baseload output and associated cost responsibilities will continue to be aligned with their baseload needs.

Power Agency Approval

The foregoing commitment by Power Agency was approved and its execution and delivery authorized by Power Agency’s Board of Commissioners and Board of Directors, by resolutions adopted on July 25th, 2023, and July 28th, 2023, respectively.

Executed this ____ day of _____, 2023.

NORTH CAROLINA MUNICIPAL
POWER AGENCY NUMBER 1

By: _____
Chief Executive Officer

Attest:

Assistant Secretary
(SEAL)

[Municipality's Letterhead]

Michael S. Colo, Esq.
Poyner Spruill, LLP
1151 Falls Road, Suite 1000
Rocky Mount, NC 27804

Re: North Carolina Municipal Power Agency Number One

Dear Mr. Colo:

The contracts and certificate listed below are being transmitted to you as attorney for North Carolina Municipal Power Agency Number One by the undersigned Clerk of the **Town of Landis**.

1. Two (2) executed copies of Amendment No. 3;
2. One (1) executed copy of the Excess Participant's Share Agreement;
3. Clerk's certificate, with attached Ordinance, Minutes of the meeting at which the Ordinance was adopted and all other documents required thereby.

Yours very truly,

Madison Brown, Town Clerk

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF LANDIS, NORTH CAROLINA DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE TOWN OF LANDIS TO APPROVE THE POWER PURCHASE AGREEMENT BY AND BETWEEN NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1 AND CENTRAL ELECTRIC POWER COOPERATIVE, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF, AMONG OTHER DOCUMENTS, AN AMENDMENT TO THE PROJECT POWER SALES AGREEMENT WITH NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1

WHEREAS, the Town of Landis (the “Municipality”) and North Carolina Municipal Power Agency Number 1 (“Power Agency”) entered into a Project Power Sales Agreement, Catawba Nuclear Project (the “Power Sales Agreement”), dated as of the first day of May, 1978, pursuant to which Power Agency provides, or causes to be provided, the Municipality with power and energy from the Catawba Project; and

WHEREAS, the Board of Directors of Power Agency, on May 25, 2023, adopted (i) Resolution BDR-4-23 (the “Resolution”), which, among other things, approves and authorizes the execution and delivery of a Power Purchase Agreement (the “PPA”) between the Power Agency and Central Electric Power Cooperative, Inc. (“Central”) pursuant to which Power Agency will sell and Central will purchase nuclear capacity and energy associated with a portion of Power Agency’s ownership and contractual interest in the Catawba Project, (ii) Resolution BDR-5-23 authorizing Power Agency to execute and deliver to each Participant an amendment to the Power Sales Agreement to give effect to the transactions contemplated by the PPA (“Amendment Agreement No. 3”), and, on July 28, 2023, adopted (iii) Resolution BDR-9-23 authorizing Power Agency to execute and deliver to each Participant the Agreement Regarding the Purchase and Sale of Excess Participant’s Share of Project Output (“Excess Participant’s Share Agreement”) and a

Letter of Intent Regarding the Sizing of Participant’s Shares of Catawba (Post 2023) (the “Letter of Intent”) and to take such actions as are necessary, advisable or convenient to obtain the consent of each Participant to, and the approval of each Participant of, the consummation of the transactions contemplated by the PPA, and Amendment Agreement No. 3; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency’s Consulting Engineer, to prepare an economic analysis of the projected impact of the transactions contemplated by the PPA on Power Agency’s wholesale power costs and proposed full requirements wholesale rates (the “Economic Analysis”); and

WHEREAS, Power Agency has caused to be furnished to the Municipality each of the following: (i) the PPA, (ii) Resolution BDR-4-23, (iii) Resolution BDR-5-23, (iv) Resolution BDR-9-23, (v) an executed Amendment Agreement No. 3, dated as of July 28, 2023, (vi) an executed Excess Participant’s Share Agreement, dated as of July 28, 2023, (vii) a copy of the Letter of Intent, and (viii) the Economic Analysis; and

WHEREAS, the Board of Aldermen of the Municipality (the “Governing Body”) has taken into consideration the benefits which might be achieved by (i) approving the transactions contemplated by the PPA, and (ii) approving, executing and delivering Amendment Agreement No. 3 and the Excess Participant’s Share Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Landis:

1. After due consideration to the contents of each of the preambles set forth above and to each of the documents referred to in such preambles, the Governing Body hereby finds and determines that it is in the best interests of the Municipality (i) to consent to and approve the consummation of the transactions contemplated by the PPA, and the

same is hereby consented to and approved, and (ii) to enter into Amendment Agreement No. 3 and the Excess Participant’s Share Agreement.

2. The Governing Body hereby authorizes and directs that Amendment Agreement No. 3 be executed for and on behalf of the Municipality by the Mayor and Clerk, sealed with the seal of the Municipality and delivered to the Power Agency in the form and substance of Amendment Agreement No. 3 presented at this meeting.

3. The Governing Body hereby ratifies the execution of the Excess Participant’s Share Amendment for and on behalf of the Municipality by the Mayor and Clerk at a duly called regular meeting held on August 14, 2023, sealed with the seal of the Municipality and delivered to the Power Agency in the form and substance of the Excess Participant’s Share Agreement presented at the duly called regular meeting of the Governing Body on August 14, 2023 and at this meeting.

4. The Governing Body hereby directs the Clerk to furnish or cause to be furnished to Power Agency a certified copy of this ordinance together with the executed Amendment Agreement No. 3 and the Excess Participant’s Share Agreement.

5. The Governing Body hereby directs the Clerk to file with the minutes of this meeting (i) the PPA, (ii) Resolution BDR-4-23, (iii) Resolution BDR-5-23, (iv) Resolution BDR-9-23, (v) the proposed Amendment Agreement No. 3, (vi) the proposed and executed Excess Participant’s Share Agreement, (vii) the copy of the Letter of Intent, and (viii) the Economic Analysis as presented and available at this meeting.

6. This Ordinance shall become effective upon its adoption.

ADOPTED this _____ day of _____, 2023.

Mayor

ATTEST:

Clerk

(SEAL)