

EL PASO ELECTRIC COMPANY
ORIGINAL SAMPLE FORM NO. 18
CANCELLING REVISED SHEET NO. 599

CONTRACT AGREEMENTS - COGENERATION AND SMALL POWER PRODUCTION

Page 1 of 1

(See Attached)

EFFECTIVE BY OPERATION OF LAW
SEC. 62-8-7 AND G. O. NO. 2, SEC. 20
DATE SEP 20 1984
NEW MEXICO PUBLIC SERVICE COMMISSION

Advice Notice No. 112

Signature/Title *[Handwritten Signature]*

Vice President

STANDARD
INTERCONNECTION AGREEMENT
FOR QUALIFYING FACILITIES WITH A DESIGN
CAPACITY OF 100 KILOWATTS OR LESS

PREAMBLE

This AGREEMENT is made as of the _____ day of _____, 19___, by and between _____, and El Paso Electric Company (EPE), hereinafter referred to collectively as "Parties" and singularly as "Party."

■ WHEREAS, the Producer receives electric service from EPE. ■

WHEREAS, EPE is subject to the jurisdiction of the New Mexico Public Service Commission ("NMPS") and EPE desires to ■ purchase ■ ■ accept ■ and the Producer desires to ■ sell ■ ■ provide ■ all the electric energy produced by the Qualifying Facility ("QF") that is not consumed by the Producer, and the NMPS has adopted its General Order No. 37 governing this transaction and EPE has filed its Standard Tariff thereunder, a copy of which is annexed hereto and incorporated herein by reference and is subject to change by the NMPS; and

WHEREAS, the Producer represents and warrants that the facility is a QF as defined by General Order No. 37 having an installed capacity of 100 Kilowatts or less.

NOW, THEREFORE, for and in consideration of the mutual undertakings herein contained and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Producer and EPE agree as follows:

SECTION 1

DEFINITIONS

Whenever used in the Agreement, the following words and phrases shall have the following meanings:

Section 1.1

"Agreement" shall mean this Agreement and all schedules, tariffs, attachments, exhibits, and appendices attached hereto and incorporated herein by reference.

Section 1.2

"Interconnection Facilities" shall mean all machinery, equipment, and fixtures required to be installed solely to interconnect and deliver power from the QF to the EPE's system, including, but not limited to, connection, transformation, switching, metering, relaying, line and safety equipment and shall include all necessary additions to, and reinforcements of, the EPE's system.

Section 1.3

"Prudent Electrical Practices" shall mean those practices, methods and equipment, as changed from time to time, that are commonly used in prudent electrical engineering and operations to operate electric equipment lawfully, and with safety, dependability, efficiency and economy.

Section 1.4

"Qualifying Facility" (QF) means a cogeneration facility or a small power production facility of an installed capacity of 100 kilowatts or less which meets the criteria for qualification presently set forth in Subpart B of Paragraph 292, Subchapter K, Chapter I, Title 18, of the Code of Federal Regulations.

Section 1.5

"Interconnection Costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety precautions, and administrative costs incurred by EPE directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with the QF, to the extent such costs are in excess of the corresponding costs which EPE would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources.

Interconnection costs do not include any costs included in the calculation of avoided costs.

Section 1.6

"Point of Delivery" means the geographical and physical location described on Exhibit B hereto. Such exhibit depicts the location of the QF's side of the Interconnection Facilities where Producer is to sell and deliver electric power and energy pursuant to this Agreement.

Section 1.7

"Termination" means termination of this Agreement and the rights and obligations of the parties under this Agreement, except as otherwise provided for in this Agreement.

Section 1.8

"Suspension" means suspension of the obligation of EPE to interconnect with and purchase electricity from the Producer.

SECTION 2

FACILITIES TO BE PROVIDED

Unless otherwise provided for herein, EPE will purchase and accept and the Producer will sell provide all the electric energy produced by the QF that is not consumed by the Producer. Upon execution of this Agreement, the Producer shall, at its expense, design, construct, install, operate, and maintain to and at the Point of Delivery the QF which is described in Exhibit A, attached hereto and hereby incorporated by reference.

The Point of Delivery shall be located as described on Exhibit B, attached hereto and hereby incorporated by reference, which shall include the following information:

The QF shall meet all applicable Federal, state and local codes, all provisions of the National Electric Code and the National Electric Safety Code, as such codes now exist, and all Prudent Electrical Practices.

The Producer shall submit all specifications and drawings of its proposed QF to EPE for tentative written approval prior to connecting the QF to EPE's system. EPE's review of the Producer's specifications and drawings shall be provided within a reasonable time.

Tentative approval shall not be construed as permission to operate the facilities without written authorization from EPE after inspection of the completed facilities.

Within 60 days of the execution of this Agreement and receipt of necessary rights-of-way, easements and materials, unless such period is extended by the NMPSC, EPE shall design, construct, install, operate, and maintain the

Interconnection Facilities described on Exhibit C, attached hereto and hereby incorporated by reference. The Producer shall reimburse EPE for all costs incurred by EPE for Interconnection Costs, an estimate of which costs are set out on Exhibit C attached hereto. Terms of reimbursement shall be _____

The Producer shall furnish, install and maintain a clearly labeled load break disconnect switch in a visible outside, readily accessible location for the purpose of isolating Producer's generation from the EPE system. The load disconnect switch must disconnect the Producer's generator from the EPE system without interrupting other types of service to the Producer. The Producer shall provide a map of suitable scale showing the exact location of the switch. Such map shall be included in Exhibit B attached hereto and incorporated herein by reference. The switch shall be a securable type switch. Ingress and egress to this switch by EPE's personnel shall be provided at all times by the Producer. The load break disconnect switch must comply with the Interconnection and Safety Standards attached as Exhibit D hereto and incorporated herein by reference.

EPE's review of the Producer's specifications, drawings and maps, inspection of or authorization to operate the QF or approval of any modification thereto shall be construed neither as its confirmation or endorsement of the design of QF nor as an endorsement, warranty, guarantee or representation concerning the safety, operating characteristics, durability or reliability of the QF. Notwithstanding such review, inspection, authorization or approval, or the failure to make the same, EPE shall not be responsible or liable for the strength, details of design, defects, outages, adequacy, operation or capacity of the QF to Producer or any third parties.

SECTION 3

TERMS OF AGREEMENT

The original term of this Agreement shall be for a period of five (5) years from the date of the execution of this Agreement and shall continue thereafter from year to year until terminated as herein provided.

Section 3.1 Termination by the Producer

Termination of this Agreement during and after the original term requires written notice to EPE that this Agreement will terminate in ninety (90) days. The Producer may terminate this Agreement without showing good cause.

Section 3.2 Termination by EPE

Termination of this Agreement during and after the original term requires written notice to the Producer that this Agreement will terminate in ninety (90) days, unless otherwise provided. EPE, in the exercise of this right, must show good cause for the termination. Good cause shall include, but is not limited to, the specific provisions contained in Sections 3.3, 3.4, 4.4 and 12.

Section 3.3

At any time the QF is sold, leased, assigned, or otherwise transferred, the seller or lessor of the QF shall notify EPE and this contract may be terminated at EPE's option regardless of whether such transfer occurs during the original term or any renewal thereof. Such termination may be made with five (5) days written notice by EPE.

Section 3.4

Should the Producer default in the performance of any of the Producer's obligations hereunder, EPE may suspend interconnection, purchases, or both, and if the default continues for more than 90 days after written notice by EPE to the Producer, EPE may terminate this contract. Termination or suspension shall not affect the obligation of EPE to pay for energy already delivered or

of the Producer to reimburse interconnection costs, or any cost then accrued. Upon termination, all amounts owed to EPE will become payable immediately.

SECTION 4

EASEMENTS AND RIGHTS-OF-WAY

Section 4.1

The Producer hereby agrees to grant, at no expense to EPE, all easements and rights-of-way necessary for EPE to install, operate, maintain, replace, and remove EPE's metering and Interconnection Facilities, including, but not limited to adequate and continuous access rights to property owned by the Producer.

Section 4.2

The Producer agrees to execute and deliver all documents EPE shall deem necessary to enable EPE to obtain and record such easements and rights-of-way.

Section 4.3

If any part of the Interconnection Facilities is to be installed on property owned by any person who is not a party to this Agreement, the Producer shall, at its expense, obtain from the owner of such property in the name of EPE, and in a form satisfactory to EPE, all necessary easements and rights-of-way for EPE to install, operate, maintain, replace, and remove the Interconnection Facilities.

Section 4.4

EPE shall have no duty or responsibility to acquire any easements or rights-of-way necessary to connect the QF to EPE's system. If necessary easements and rights-of-way are not obtained on terms agreeable to EPE, this Agreement may be terminated by EPE giving written notice of such intention to the Producer within a reasonable time from date of this Agreement.

SECTION 5

METER INSTALLATION

The Producer will be metered by a meter or meters as determined by EPE. EPE may install, at its option and expense, magnetic tape recorders in order to obtain load research information. The Producer shall supply, at its own expense, a suitable location for all meters and associated equipment. Such location must conform to EPE's meter location policy.

The following metering options will be offered by EPE.

Load Displacement Option. EPE will interconnect with the customer using a single meter which will be ratcheted and would only measure the flow of energy to the Producer. Billing to the Producer will be at EPE's approved tariff rate applicable to the service provided to the QF. There will be no additional customer charge and no payment by EPE for any excess power which might be generated by the QF.

Net Metering Option. EPE may install an additional meter to measure separately the energy generated by the Producer and then calculate net energy consumed or supplied by the Producer. The Producer will be paid for energy supplied above the amount consumed at EPE's standard energy rate for such purchases, as filed with and approved by the NMPSC. EPE will be paid for energy consumed by the Producer in excess of the amount supplied by the Producer at its approved tariff rate applicable to the service provided to the Producer. An additional customer charge to cover the added costs of billing and administration may be included in the tariff.

Simultaneous buy/Sell Option. EPE will install **an** additional meter(s) to measure separately all the power produced and consumed by the Producer. EPE will purchase all power produced at its standard energy rate for such purchases as filed with and approved by the NMPSC. The Producer shall purchase all power consumed at EPE's standard applicable rate. An additional

customer charge to cover the added costs of billing and administration may be included.

All meter standards and testing shall be in compliance with EPE's rules and regulations as approved by the NMPSC.

The metering configuration shall be one of EPE's standard metering configurations as set out in Exhibit E and mutually agreeable to the parties or any other metering configuration mutually agreeable to the parties. The agreed upon configuration is shown on Exhibit A.

SECTION 6

OPERATION

The Producer shall notify EPE before the initial energizing and start-up testing of the QF and EPE shall have the right to have a representative present at such test. In the event the QF and the Producer are in compliance with all provisions of this contract, EPE shall give written authorization to the Producer to operate the QF.

Written authorization to operate the QF or approval of any modification thereto shall be construed neither as a confirmation or endorsement of the design of the QF nor as an endorsement, warranty, guarantee or representation concerning the safety, operating characteristics, durability or reliability of the QF. Notwithstanding such authorization, or the failure to give the same, EPE shall not be responsible or liable for the strength, details of design, defects, outages, adequacy, operation or capacity of the QF to Producer or any third parties.

Each Party shall construct, operate and maintain its system and facilities in compliance with the Interconnection and Safety Standards as set out in Exhibit D.

Section 6.1 Suspension

- A. The load break disconnect switch provided by the Producer may be opened and secured with an EPE-owned padlock by EPE without prior notice to the Producer in the event of:
1. EPE's system emergency.
 2. Evidence showing the Producer's QF to be hazardous to EPE's system or customers.
- B. EPE will endeavor to notify the Producer of its intent to open the switch if:
1. There is evidence that the Producer's QF is interfering with service to other EPE customers or interfering with the operation of EPE's equipment. The Producer may be reconnected by EPE when the Producer makes the necessary changes to comply with the standards required by this Agreement.
 2. There is a failure of the Producer to adhere to this Agreement.
 3. It is necessary to assure safety of EPE's personnel.
 4. If suspension of service is otherwise necessary and allowed under the Rules and Regulations of the NMPSC.

The Producer shall notify EPE prior to making any modifications to the QF or to the interconnection between the QF and EPE. The Producer must receive approval from EPE prior to proceeding with such modifications. As a result of such modifications, the Producer shall permit EPE, at any time, to install or modify any equipment, facility or apparatus necessary to protect the safety of its employees or to assure the accuracy of its metering equipment. The cost of the above shall be borne by the Producer.

Approval of a modification of a QF shall be construed neither as a confirmation or endorsement of the modification nor as an endorsement, warranty, guarantee or representation concerning the safety, operating

characteristics, durability or reliability of the QF. Notwithstanding such approval, or the failure to give the same, EPE shall not be responsible or liable for the strength, details of design, defects, outages, adequacy, operation or capacity of the QF to Producer or any third parties. EPE shall have the right to disconnect the QF if it has been modified without EPE's authorization.

The Producer shall cooperate with load management plans and techniques as ordered or approved by the NMPSC, and the service to be furnished by EPE, hereunder may be modified as required to conform thereto.

SECTION 7

FORCE MAJEURE

"Force Majeure" shall mean any cause beyond the control of the Party affected, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority, which by exercise of due diligence such Party could not reasonably have expected to avoid and which by exercise of due diligence, it shall be unable to overcome.

If either Party, because of force majeure, is rendered wholly or partly unable to perform its obligations under this Agreement, except for the obligation to make payments of money, that Party shall be excused from whatever performance is affected by the force majeure to the extent so affected, provided that:

- (a) the nonperforming Party, within a reasonable time after the occurrence of the force majeure, gives the other Party written notice describing the particulars of the occurrence;
- (b) The suspension of performance is of no greater scope and of no longer duration than is required by the force majeure; and
- (c) The nonperforming Party uses its best efforts to remedy its inability to perform. (This subparagraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved in the disputes.)

SECTION 8

INDEMNITY

Each Party shall indemnify and save the other Party harmless from liability, loss costs, and expenses on account of death or injury to persons or damage or destruction of property occasioned by the negligence of the indemnifying Party or its agents, officers, employees, contractors, licensees or invitees, or any combination thereof, except to the extent that such death, injury, damage, or destruction resulted from the negligence of the other Party. Provided, however, that:

- (a) each Party shall be solely responsible for the claims or any payments to any employee or agent for injuries occurring in connection with their employment or arising out of any Workmen's Compensation Law or Occupational Disease Disablement Law;
- (b) EPE shall not be liable for any loss of earnings, revenues, indirect or consequential damages or injury which may occur to the Producer as a result of interruption or partial interruption (single-phasing) in delivery of service hereunder to Producer or by failure to receive service from Producer by reason of any cause whatsoever, including negligence; and

- (c) the provisions of this section on indemnification shall not be construed so as to relieve any insurer of its obligation to pay any insurance proceeds in accordance with the terms and conditions of any valid insurance policy.

The indemnifying Party shall pay all costs and expenses incurred by the other Party in enforcing the indemnity under this Agreement including reasonable attorney fees.

SECTION 9

DEDICATION

An undertaking by one Party to another party under any provision of this Agreement shall not constitute the dedication of such Party's system or any portion thereof to the public or to the other Party and any such undertaking shall cease upon termination of the Party's obligations herein.

SECTION 10

STATUS OF PRODUCER

In performing under this Agreement, the Producer shall operate as or have the status of an independent contractor and shall not act as or be an agent, servant, or employee of EPE.

SECTION 11

WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matters.

SECTION 12

ASSIGNMENT

This Agreement and all provisions hereof shall inure to and be binding

upon the respective parties hereto, their personal representatives, heirs, successors, and assigns. Producer shall not assign this Agreement or any part hereof without the prior written consent of EPE, otherwise this Agreement may be terminated pursuant to Section 3.3 of this Agreement.

SECTION 13

NOTICES

Any payments, notices, demands or requests required or authorized by this Agreement shall be deemed properly given if personally delivered or mailed postage prepaid to:

To or upon Producer:

_____, New Mexico_____

(Zip Code)

To or upon EPE
El Paso Electric Company
Post Office Box 910
Las Cruces, New Mexico 88004
Attention: Mr. Frank Vejil

The designation of the persons to be notified, or the address thereof, may be changed by notice in writing by one Party to the other. Routine notices and notices during a system emergency or operational circumstance may be made in person or by telephone.

SECTION 14

ENERGY PURCHASE PRICE AND METERING OPTION

All electric energy delivered and service rendered hereunder shall be delivered and rendered in accordance with the applicable rate schedules and

tariffs attached hereto and made a part hereof by reference. Producer has selected _____ metering option which is more fully explained in Section 5. It is understood and agreed, however, that said rates are expressly subject to change by any regulatory body having jurisdiction over the subject matter of this Agreement.

If a new rate schedule or tariff is approved by the proper regulatory body, the new rate schedule or tariff shall be applicable to this Agreement upon the effective date of such rate schedule or tariff.

SECTION 15

INSURANCE

In the event the NMPSC or other regulatory body allows EPE to require the Producer to carry liability insurance covering the QF, the Producer agrees to obtain such insurance. If insurance is required, the same requirement will be invoked for all Producers in a non-discriminatory manner. ALL PRODUCERS ARE STRONGLY URGED TO OBTAIN LIABILITY INSURANCE TO COVER RISKS, LIABILITIES AND CONSEQUENCES WHICH MAY ARISE AS A RESULT OF INTERCONNECTING A QF TO A UTILITY SYSTEM.

SECTION 16

MISCELLANEOUS

This Contract and any amendments thereto, including any tariffs made a part hereof, shall at all times be subject to such changes or modifications as shall be ordered from time to time by any regulatory body or court having jurisdiction to require such changes or modification.

This Contract (and any tariffs incorporated herein) contains all the agreements and representations of the parties relating to the interconnection and purchases contemplated and no other agreement, warranties, understandings

or representations relating thereto shall be binding unless set forth in writing as an amendment hereto.

In witness thereof, the Parties have executed this Agreement on the date set forth herein above.

EL PASO ELECTRIC COMPANY

Date: _____

By: _____
Lawrence M. Downum, Jr.
Vice President

PRODUCER

Date: _____

By: _____

