



# Agenda Item Summary

Meeting of: September 16, 2024

**Agenda Item Title:** MPPA & City of Chelsea Power Sales Contract for Belle River Project.

**Submitted by:** Martin Colburn/City Manager

**Approved for submittal:**

City Manager

MPPA represents the city as a part of an electrical consortium of communities who own their own electrical companies. Members are provided with the opportunity to buy into projects. The City of Chelsea bought into the Belle River Power Plant many years ago. In an attempt to neutralize climate change throughout the nation and the City of Chelsea, our counterparts, working through MPPA are attempting to turn greener. This is a goal of the Chelsea City Council. The Belle River power plant is aging out with the current technology (coal fired). The plan is to convert Belle River Power Plant into a natural gas burning power plant, doing away with coal.

MPPA is empowered by state law to acquire and construct facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy, or to acquire an interest in any such facilities. MPPA entered into the Belle River Participation Agreement dated December 1, 1982. The City of Chelsea renewed its Project Support Contract at the September 3<sup>rd</sup>, 2024, City Council meeting, with MPPA to support the Chelsea Electric Company as well as other members of the MPPA project consortium, to purchase electricity on our behalf.

Power purchasing which is allowed through a joint purchasing agency such as MPPA, typically has us purchasing under all the same terms. The updated agreement will allow our partners to purchase, such as in the case of Belle River with a cash payment up front versus others that can purchase by bonding. City staff has recommended that we bond. **It is important to note that the bonding will occur through MPPA and not the local municipalities.**

The review committee for the Belle River Power Plant project consists of eleven (11) communities. Chelsea holds 1.34%. The committee has talked through the type of funding, whether to buy our portion of the project with cash up front, bond, or a hybrid. I'm attaching the financial breakout provided by MPPA. The attached agreement is the actual purchasing agreement to fund the purchase of the capital upgrades of Belle River.

One specific item to point out with the changes is related to risk. If one of the eleven partners were to default on the bond, all other partners would have to pay their pro-ratio part to make up the difference, up to and capped at 25%. Although I would not expect anyone to default, the value of that is that we would own an additional value (percentage) of the investment. This would be valued due to it being added "green rather than coal" energy.

Staff has met with our electrical financial planner Dan Lund of UFS. Due to the current status of cash flows of the electric company fund, we will recommend pursuing the energy purchase agreement by participating with MPPA bonding. It would be a 7 (seven) year bond late this year or early in the 2025 calendar year.

**Capital Requirement Schedule**

Capital Requirement \$ 35,000,000

Member	Power	Funding		Cash		Bond
	Entitlement Share	Obligation		Election		Election
Bay City	3.71%	\$ 1,298,500	\$ -	\$ -	\$ -	-
Charlevoix	1.65%	\$ 577,500	\$ -	\$ -	\$ -	-
Chelsea	1.34%	\$ 469,000	\$ -	\$ -	\$ -	-
Hart	0.25%	\$ 87,500	\$ -	\$ -	\$ -	-
Holland	15.66%	\$ 5,481,000	\$ -	\$ -	\$ -	-
Lansing	64.29%	\$ 22,501,500	\$ -	\$ -	\$ -	-
Lowell	1.24%	\$ 434,000	\$ -	\$ -	\$ -	-
Petoskey	1.85%	\$ 647,500	\$ -	\$ -	\$ -	-
Portland	0.54%	\$ 189,000	\$ -	\$ -	\$ -	-
Traverse City	4.53%	\$ 1,585,500	\$ -	\$ -	\$ -	-
Zeeland	4.94%	\$ 1,729,000	\$ -	\$ -	\$ -	-
	<u>100.00%</u>	<u>\$ 35,000,000</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	

At this time, both Holland and Zeeland are considering paying cash for the upcoming bond for Belle River Power Plant capital improvements. All other agencies are preparing to participate through the MPPA bonding process.

###

**Budget Considerations:** Yes.

**Budget Line-Item Assignment:** Costs will be assigned to the Chelsea Electric Company Fund

**City Manager Comments/Recommendation:** Recommend approving the Power Sales contract between Michigan Public Power Agency regarding the Belle River Energy Project.

**City Manager Recommended Form of Motion:** Move to approve the MPPA Project Support Contract between the City of Chelsea and Michigan Public Power Agency regarding the Belle River Energy Project.

**Names and addresses of those to be notified:** Patrick Bowland - MPPA

**Attachments:** Power Sales Contract between MPPA and the City of Chelsea.

*All Agenda Item Summaries and any attachments are due in the City Clerk's Office by noon on the Wednesday prior to the City Council meeting. If the Wednesday prior to the City Council meeting is a holiday, then the submission deadline is noon on Tuesday.*

[COMPOSITE CONFORMED COPY]

POWER SALES CONTRACT

BETWEEN

MICHIGAN PUBLIC POWER AGENCY

AND

[ADDRESSED SEPARATELY TO EACH PARTICIPANT

AS SET FORTH IN ANNEX 1 HERETO]

As Amended and Restated

From Time to Time

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BELLE RIVER  
POWER SALES CONTRACT

This BELLE RIVER POWER SALES CONTRACT between MICHIGAN PUBLIC POWER AGENCY, a body corporate and politic of the State of Michigan created pursuant to Act 448 of the Public Acts of Michigan of 1976 ("MPPA") and [ADDRESSED SEPARATELY TO EACH PARTICIPANT AS SET FORTH IN ANNEX 1 HERETO] (the "Participant"), dated as of December 1, 1982, as amended and restated from time to time, including as amended and restated on \_\_\_\_\_, 2024.

WHEREAS, MPPA was organized under Act 448 of the Public Acts of Michigan of 1976 (the "Act") to provide a means for those Michigan municipalities which are members of MPPA to secure electric power and energy for their present and future needs; and

WHEREAS, MPPA is empowered by the Act (i) to acquire and construct facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy, or to acquire an interest in any such facilities; (ii) to purchase, sell, transmit or otherwise use electric power and energy within or without the State of Michigan; (iii) to issue its revenue bonds to pay all or part of the cost of acquiring facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy; and (iv) to exercise all other powers not inconsistent with the laws of the State of Michigan or the United States of America which may be necessary or appropriate for, or incidental to, the effectuation of its authorized purposes; and

WHEREAS, MPPA entered into the Belle River Participation Agreement dated as of December 1, 1982, as amended and restated from time to time, including as amended and restated on May 7, 2024 ("Amended and Restated Belle River Participation Agreement" or "Belle River Participation Agreement"), with DTE Electric Company, formerly known as The Detroit Edison Company, pursuant to which MPPA purchased an undivided interest in, and is entitled to a portion of the electric power and energy derived from, those electric generating and other facilities described herein and designated as Belle River; and

WHEREAS, MPPA entered into the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982 with DTE Electric Company, formerly known as The Detroit Edison Company, pursuant to which MPPA purchased an undivided interest in certain 120 kV and higher voltage transmission lines designated in such agreement as the Designated Transmission Lines; and

WHEREAS, MPPA entered into the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982 with Consumers Energy Company, formerly known as Consumers Power Company, pursuant to which MPPA purchased an undivided interest in certain 345 kV or higher voltage transmission lines designated in such agreement as the Designated EHV Transmission Lines; and

WHEREAS, MPPA will take or cause to be taken all steps necessary for acquisition and construction of those facilities described herein and designated as the Belle River Project for the supply of electric power and energy to the Participant and to the other municipalities contracting with MPPA therefor and will sell the power and energy of the Belle River Project pursuant to this Power Sales Contract and pursuant to contracts substantially similar to this contract with such other municipalities or other contracts with members of MPPA or others who are not Participants; and

WHEREAS, in order to enable MPPA to finance all or a portion of the Belle River Project and/or issue its revenue bonds to pay the cost of acquiring and constructing the Belle River Project it is necessary for MPPA to have substantially similar binding contracts with the Participant and such other municipalities purchasing power and energy of the Belle River Project and to pledge the payments required to be made in accordance with such contracts as security for the payment of the revenue bonds;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

## **SECTION 1. Definitions and Explanations of Terms.**

Unless the context indicates that another meaning is intended, the following words, when used in this Power Sales Contract, including the Preamble and the Schedules, shall have the following meanings:

Belle River shall mean Belle River as such term is defined in the Belle River Participation Agreement.

Belle River 1 shall mean Belle River 1 as such term is defined in the Belle River Participation Agreement.

Belle River 2 shall mean Belle River 2 as such term is defined in the Belle River Participation Agreement.

Belle River Participation Agreement shall mean the Amended and Restated Belle River Participation Agreement as the same may be amended and restated from time to time in accordance with the provisions thereof.

Belle River Project shall mean the ownership interest and contract rights of MPPA in Belle River and Belle River Transmission.

Belle River Project Capability shall mean the amount of Net Electric Capacity and Energy, if any, which Belle River is capable of generating at any particular time (including times when Belle River is not operable or operating or the operation thereof is suspended, interrupted, interfered with, reduced or curtailed, in each case in whole or in part for any reason whatsoever) to which MPPA is entitled under the Belle River Participation Agreement, all determined in accordance with the Belle River Participation Agreement.

Belle River Transmission shall mean certain 120 kV and higher voltage transmission lines and transmission facilities ownership of all or a portion of which has been conveyed to MPPA by The Detroit Edison Company (now known as DTE Electric Company) pursuant to the Edison Transmission Agreement and by Consumers Energy Company, formerly

known as Consumers Power Company, pursuant to the Consumers Transmission Agreement.

Bond Anticipation Notes shall mean notes or other evidence of indebtedness from time to time issued in anticipation of the issuance of Bonds, the proceeds of which have been or are required to be applied to one or more of the purposes for which Bonds could be issued.

Bond Election shall mean, with respect to each Participant that elects to participate or partially participates in a bond issue with respect to the Belle River Project, the original principal amount of the bond issue allocated to the Participant as shown opposite their name in the Capital Requirements Schedule, in the Bond Election column (see sample table attached as Exhibit X) that comprises a part of the Bond Resolution for each bond issue.

Bond Resolution shall mean the Belle River Project Revenue Bond Resolution providing for the issuance of the Bonds adopted or to be adopted by the Board of Commissioners of MPPA including any and all amendments and supplements thereto adopted in accordance with the provisions thereof.

Bonds shall mean the Bonds from time to time issued by MPPA pursuant to the Bond Resolution to pay any part of the Cost Of Acquisition And Construction of the Belle River Project, whether or not any issue of such Bonds shall be subordinated as to payment to any other issue of Bonds, and shall include additional Bonds and refunding Bonds issued in accordance with this Power Sales Contract and the Bond Resolution.

Cash Election shall mean with respect to each Participant that elects not to participate or partially participates in a bond issue with respect to the Belle River Project, the amount of cash the Participant must contribute as shown opposite their name on the Capital Requirement Schedule, in the Cash Election column (see sample table attached as Exhibit X) that comprises a part of the Bond Resolution for each bond issue.



Consumers Transmission Agreement shall mean the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982, between MPPA and Consumers Energy Company, formerly known as Consumers Power Company, as the same may be amended or supplemented from time to time in accordance with the provisions thereof.

Consumers Transmission Cost Factor shall mean, with respect to each Participant, the factor (expressed as a percentage) shown opposite the name of such Participant in the Schedule of Participants which specifies such Participant's proportionate share of Monthly Transmission Costs based on (i) such Participant's Transmission Entitlement Share, (ii) such Participant's right to acquire transmission ownership at net or gross plant, as appropriate, and (iii) the voltage level of such Participant's Point of Delivery.

Contract Year shall mean the twelve (12) month period commencing at 12:01 a.m. on January 1 of each year, except that the first Contract Year shall commence on the first to occur of (i) the date to which all interest is capitalized with respect to all Bonds, (ii) the date which is twelve months prior to the date on which the first principal installment on any of the Bonds is due or (iii) the Commercial Operation Date of Belle River 1.

Cost Of Acquisition And Construction shall mean, to the extent not included in Monthly Power Costs or Monthly Transmission costs, all costs of planning, engineering, financing, constructing, acquiring and placing the Belle River Project in operation, including the conversion of the Belle River Project's fuel source from coal to natural gas, whether heretofore or hereafter paid or incurred by MPPA, including amounts paid to DTE Electric Company under the Belle River Participation Agreement and the Edison Transmission Agreement and to Consumers Energy Company, formerly known as Consumers Power company, under the Consumers Transmission Agreement for any cost or expense which would be a Cost Of Acquisition And Construction if paid or incurred by MPPA, all as contemplated by the term "Costs of Acquisition and Construction" as defined in the Bond Resolution, which shall include, but shall not be limited to, funds for:

(1) interest accruing in whole or in part on Bonds prior to and during construction and for such additional period as MPPA may reasonably determine to be necessary for placing the Belle River Project in operation in accordance with the provisions of the Bond Resolution;

(2) the acquisition of fuel inventory for the Belle River Project;

(3) the working capital requirements of the Belle River Project;

(4) the deposit or deposits required to be made under the Bond Resolution from the proceeds of Bonds into any fund or account established pursuant to the Bond Resolution to meet Debt Service reserve requirements for Bonds;

(5) the deposit or deposits required to be made under the Bond Resolution from the proceeds of Bonds into any fund or account established pursuant to the Bond Resolution as a reserve for renewals, replacements and contingencies and retirement from service or disposal of any facilities of the Belle River Project, including restoration of lands with respect thereto, or as a general reserve;

(6) if applicable, all federal, state and local taxes and payments in lieu of taxes required to be paid under the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement or otherwise legally required to be paid in connection with the acquisition and construction of the Belle River Project;

(7) all costs relating to claims or judgments arising out of construction of the Belle River Project;

(8) all planning and development costs, engineering fees, contractors' fees, costs of obtaining governmental or regulatory permits, licenses and approvals, costs of real property, labor, materials, equipment, supplies, training and testing costs, insurance premiums, legal and financing costs, administrative and general costs, and all other costs properly allocable to the acquisition and construction of the Belle River Project and placing the same in operation;

(9) the costs and expenses incurred in the issuance and sale of Bonds and Bond Anticipation Notes, including bond discounts, if any;

(10) all other costs incurred in connection with, and properly chargeable to, the acquisition and construction of the Belle River Project in accordance with, or which constitute a Cost of Construction under, the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement; and

(11) the payment of principal, premium, if any, and interest when due (whether at the maturity of principal or at the due date of interest or upon redemption) on Bond Anticipation Notes unless such costs are to be paid from proceeds of Bonds pursuant to the Bond Resolution.

MPPA shall apply as a credit against the Cost of Acquisition and Construction of the Belle River Project, to the extent not credited against Monthly Power Costs or Monthly Transmission Costs, all proper credits thereto, including, without limitation, all receipts, revenues and other moneys to the extent received by it or credited to it under the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement from insurance proceeds, condemnation awards, damages collected from contractors, subcontractors or others and proceeds from the sale or other disposition of surplus property and test energy, all relating to the Belle River Project, and interest earned on investments held under the Bond Resolution.

Debt Service shall mean, with respect to any period, the aggregate of the amounts required by the Bond Resolution to be paid or deposited during said period into any fund or account created by the Bond Resolution for the sole purpose of paying the principal (including sinking fund installments) of, premium, if any, and interest on all Bonds from time to time outstanding as the same shall become due; provided, however, that Debt Service shall not include any amount payable as principal or interest solely as a result of acceleration of maturity of Bonds.

Debt Service Entitlement Share shall mean with respect to each Participant, that share of participation in the issuance of Bonds or Bond Anticipation Notes under the Bond

Resolution as shown opposite the name of such Participant on the Capital Requirement Schedule in the Debt Service Entitlement Share column (see sample table attached as Exhibit X).

Debt Service Step-Up Obligation shall mean with respect to each Participant the maximum amount of outstanding principal a Participant shall be required to assume in the event of default of another Participant.

Edison Transmission Agreement shall mean the Belle River Transmission ownership and Operating Agreement dated as of December 1, 1982, between MPPA and The Detroit Edison Company (now known as DTE Electric Company), as the same may be amended or supplemented from time to time in accordance with the provisions thereof.

Edison Transmission Cost Factor shall mean, with respect to each Participant, the factor (expressed as a percentage) shown opposite the name of such Participant in the Schedule of Participants which specifies such Participant's proportionate share of Monthly Transmission Costs based on such Participant's Transmission Entitlement Share.

Electric Capacity shall mean kilowatts (kW) electric.

Electric Energy shall mean kilowatt hours (kWh).

Minimum Loading Level shall mean, with respect to each Participant, the minimum amount of production which such Participant may be required to schedule when Belle River is operating, which minimum amount in any hour shall be determined by multiplying the minimum amount of production which MPPA may be required to schedule pursuant to the Belle River Participation Agreement by such Participant's Power Entitlement Share.

Month shall mean a calendar month.

Monthly Power Costs shall mean, with respect to each Month of each Contract Year, all costs (other than Project Energy Related Costs) attributable to Belle River, to the extent not paid from the proceeds of Bonds (including income from investment of such proceeds) or upfront Cash Election made by Participants, that are paid or incurred by MPPA during

such Month resulting from the ownership, operation, maintenance and termination of, and repair, renewals, replacements, additions, improvements, betterments and modifications to, Belle River, including without limitation, the following items of cost:

(1) the amount required, if any, under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution for the payment of Debt Service on Bonds allocable to Belle River;

(2) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution to the extent allocable to Belle River or in connection with Bonds allocable to Belle River (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above;

(3) any amount which MPPA may be required during such Month to pay for the prevention or correction of any unusual loss or damage or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are required under the Belle River Participation Agreement or which are necessary to keep Belle River in good operating condition or to prevent a loss of revenues therefrom, but in each case only to the extent that (a) funds for such payment are not available to MPPA from any funds or accounts established under the Bond Resolution for such purpose or (b) funds for such payment are not provided by the issuance of Bonds;

(4) the costs of operating and maintaining Belle River and of producing and delivering capacity and energy therefrom during such Month (including administrative and general expenses and working capital, for fuel or otherwise, but excluding Project Energy Related Costs and depreciation) not included in the costs specified in the other items of this definition and properly chargeable to Belle River;

(5) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution or otherwise for the payment of interest on Bond Anticipation Notes allocable to Belle River;

(6) any additional amount not specified in the other items of this definition (excluding Project Energy Related Costs) which must be paid by MPPA during such Month under the Belle River Participation Agreement;

(7) any additional amount not in excess of 5% of the amount required to be paid pursuant to clause (1) above for financial and economic surveys, studies and work relating to future power supply by the Belle River Project; and

(8) any additional amount allocable to Bonds allocable to Belle River which must be realized by MPPA during such Month in order to meet the Debt Service coverage requirement of any rate covenant of the Bond Resolution with respect to such Bonds or which MPPA deems advisable in the marketing of its Bonds.

Monthly Transmission Costs shall mean, with respect to each Month of each Contract Year, all costs (other than Transmission Utilization Adjustment Costs) attributable to Belle River Transmission, to the extent not paid from the proceeds of Bonds (including income from investment of such proceeds), or upfront Cash Election made by Participants, that are paid or incurred by MPPA during such Month resulting from the ownership, operation, maintenance and termination of, and repair, renewals, replacements, additions, improvements, betterments and modifications to, Belle River Transmission and delivery pursuant to the Power Sales Contracts of capacity and energy, including without limitation, the following items of cost:

(1) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution for the payment of Debt Service on Bonds allocable to Belle River Transmission;

(2) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution to the extent allocable to Belle River Transmission or in connection with Bonds allocable to Belle River Transmission (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above;

(3) any amount which MPPA may be required during such Month to pay for the prevention or correction of any unusual loss or damage or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are required under the Edison Transmission Agreement or the Consumers Transmission Agreement or which are necessary to keep Belle River Transmission in good operating condition or to prevent a loss of revenues therefrom but in each case only to the extent that (a) funds for such payment are not available to MPPA from any funds or accounts established under the Bond Resolution for such purpose or (b) funds for such payment are not provided by the issuance of Bonds;

(4) the costs of operating and maintaining Belle River Transmission during such Month (including administrative and general expenses and working capital, but excluding Transmission Utilization Adjustment Costs and depreciation), not included in the costs specified in the other items of this definition and properly chargeable to Belle River Transmission;

(5) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution or otherwise for the payment of interest on Bond Anticipation Notes allocable to Belle River Transmission;

(6) any additional amount not specified in the other items of this definition (excluding Transmission Utilization Adjustment Costs) which must be paid by MPPA during such Month under the Edison Transmission Agreement or the Consumers Transmission Agreement; and

(7) any additional amount allocable to Bonds allocable to Belle River Transmission which must be realized by MPPA during such Month in order to meet the Debt Service coverage requirement of any rate covenant of the Bond Resolution with respect to such Bonds or which MPPA deems advisable in the marketing of its Bonds.

Net Electric Capacity and Energy shall mean the gross electric capability, and associated electric energy, of Belle River less the associated electric energy utilized by

Belle River for all processes, auxiliary equipment and systems used or useful in connection with start-up, operation, maintenance, control, supply or shutdown of Belle River including appropriate station service transformer losses.

Participants shall mean the parties, including the Participant, other than MPPA, to Power Sales Contracts substantially similar hereto and named on the Schedule of Participants.

Point of Delivery shall mean, with respect to each Participant, (i) the point(s) of interconnection between such Participant's system and the Bulk Transmission System, Bulk Sub transmission System, or the Bulk Primary Voltage System as defined in the Transmission Ownership and Operating Agreements.

Power Entitlement Share shall mean, with respect to each Participant, that percentage of Belle River Project Capability shown opposite the name of such Participant in the Schedule of Participants.

Power Sales Contracts shall mean this Belle River Power Sales Contract and the other Belle River Power Sales Contracts, dated the date hereof, between MPPA and the other Participants, all of which are uniform in all material respects in their terms, conditions and provisions with the exception of the Power Entitlement Share, the Transmission Entitlement Share, the Transmission Cost Factor and the Transmission Utilization Adjustment Factor for each of the Participants.

Project Energy Related Costs shall mean, with respect to Belle River, those costs which vary with the amount of capacity and energy produced from time to time, including without limitation, the cost of fuel, cost of fuel transportation other than fixed costs of transportation, cost of all disposal of wastes directly relating to production of capacity and energy and other costs incurred under the Belle River Participation Agreement which are directly related to the amount of capacity and energy produced under the Belle River Participation Agreement.



Schedule of Participants shall mean the Schedule of Participants attached hereto, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Transmission Entitlement Share shall mean, with respect to each Participant, the portion of MPPA's ownership interest, expressed in kilowatts, in Belle River Transmission under the Edison Transmission Agreement and the Consumers Transmission Agreement shown opposite the name of such Participant in the Schedule of Participants.

Transmission Utilization Adjustment Costs shall mean the Utilization Adjustment, expressed in dollars, for MPPA, as determined each year in accordance with the provisions of the Consumers Transmission Agreement.

Transmission Utilization Adjustment Factor shall mean, with respect to each Participant, the factor (expressed as a percentage) to be determined each Contract Year which specifies such Participant's proportionate share of Transmission Utilization Adjustment Costs based on (i) such Participant's Power Entitlement Share for the appropriate Contract Year, (ii) such Participant's Transmission Entitlement Share for the appropriate Contract Year, (iii) such Participant's Planned Available Consumers Transmission Capacity, (iv) such Participant's right to acquire transmission ownership at net or gross plant, as appropriate, and (v) the voltage level of such Participant's Point of Delivery.

Uniform System of Accounts shall mean the Federal Energy Regulatory Commission's "Uniform Systems of Accounts" prescribed for Public Utilities and Licensees (Class A and Class B), in effect as of the date of this Power Sales Contract as such Uniform Systems of Accounts may be modified, amended or supplemented from time to time.

## **SECTION 2. Term of Contract.**

This Power Sales Contract shall become effective upon execution and delivery of Power Sales Contracts by all Participants listed in the Schedule of Participants and shall, unless this Power Sales Contract is terminated pursuant to Section 28, continue until the

later of (i) the date the principal of, premium, if any, and interest on all Bonds have been paid or funds set aside for the payment thereof or (ii) the date Belle River is retired pursuant to the Belle River Participation Agreement or the interest of MPPA in Belle River is terminated pursuant to the Belle River Participation Agreement or is otherwise disposed of.

### **SECTION 3. Sale and Purchase.**

MPPA hereby sells, and the Participant hereby purchases, the Participant's Power Entitlement Share and the Participant's Transmission Entitlement Share. The Participant shall, in accordance with and subject to the provisions of Section 4, pay MPPA (i) for its Power Entitlement Share, an amount determined by multiplying Monthly Power Costs by the Participant's Power Entitlement Share; provided, however, the amount of Debt Service Payments to be paid by a Participant shall be calculated based on the Participant's Debt Service Entitlement Share, if any, (ii) for its share of Project Energy Related Costs, an amount determined by multiplying Project Energy Related Costs by a fraction the numerator of which is the number of kilowatt hours of energy scheduled from Belle River by the Participant during the Month to which such payment relates and the denominator of which is the total kilowatt hours of energy scheduled from Belle River by all Participants during such Month, (iii) for its Transmission Entitlement Share, amounts determined by multiplying Monthly Transmission costs attributable to the Consumers Transmission Agreement by the Participant's Consumers Transmission Cost Factor and Monthly Transmission Costs attributable to the Edison Transmission Agreement by the Participant's Edison Transmission Cost Factor and aggregating such amounts and (iv) for its share of Transmission Utilization Adjustment Costs, if any, an amount determined by multiplying Transmission Utilization Adjustment Costs by the Participant's Transmission Utilization Adjustment Factor (which amount, if negative, is to be credited to Participant). Such payments are to be computed and made as provided in Section 4 below.

### **SECTION 4. Method of Payment.**

(a) On or before 30 days prior to the estimated commencement of the first Contract Year and on or before December 1 prior to the beginning of each Contract Year

thereafter, MPPA shall prepare and e-mail to the Participant a budget showing an estimate by Month of the Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, Transmission Utilization Adjustment Costs, and upon request of the Participant, the Participant's share of each, for the following Contract Year, which estimates will establish the basis for the Participant's payments in respect of Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs allocable to the Participant as hereinafter provided

(b) On or before the 10th day of each Month beginning with the second Month of the first Contract Year, MPPA shall render to the Participant a monthly statement showing, in each case with respect to the prior Month, (i) the amount payable by the Participant in respect of Monthly Power Costs; (ii) the amount payable by the Participant in respect of Monthly Transmission Costs; (iii) the amount payable by the Participant in respect of Project Energy Related Costs; (iv) the amount payable by the Participant in respect of Transmission Utilization Adjustment Costs; (v) the amount, if any, credited to or payable by the Participant with respect to any adjustment for actual Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs incurred during a prior Month for which credit or payment has not been made; (vi) the credits, if any, against Monthly Power Costs and Monthly Transmission Costs determined in accordance with paragraphs (i) and (j) of this Section 4; and (vii) any other amounts (except amounts in respect of Monthly Power Costs, which amounts are intended to be billed exclusively pursuant to clause (i) above, and amounts in respect of Monthly Transmission Costs, which amounts are intended to be billed exclusively pursuant to clause (ii) above) payable by or credited to such Participant pursuant to this Power Sales Contract or the Bond Resolution not otherwise shown; and such Participant shall pay the total of such amounts at the times specified in paragraph (d) of this Section 4.

(c) At times as it shall deem desirable, MPPA shall review its budget of Monthly

Power Costs and Monthly Transmission Costs for the Contract Year and any adjustment thereof or credit thereto pursuant to paragraphs (i) and (j) of this Section 4 and Project Energy Related Costs, and Transmission Utilization Adjustment Costs for the Contract Year. In the event such review indicates that such budget does not or will not substantially correspond with actual receipts or expenditures, or if at any time during such Contract Year there are or are expected to be extraordinary receipts, credits or payments of costs substantially affecting Monthly Power Costs and Monthly Transmission Costs and any adjustment thereof or credit thereto pursuant to paragraphs (i) and (j) of this Section 4 and Project Energy Related Costs, and Transmission Utilization Adjustment Costs, MPPA shall prepare and email to the Participant a revised budget incorporating adjustments to reflect such receipts, credits or payments which shall supersede the previous such budget as a basis for the Participant's monthly payments hereunder for the balance of that Contract Year.

(d) Monthly payments required to be paid to MPPA pursuant to this Section 4 shall be due and payable to MPPA via electronic payment as MPPA shall designate in writing to the Participant, on the 25th day of the Month following the Month with respect to which the monthly statement therefor was rendered.

(e) If payment in full is not made on or before the close of business on the due date, a delayed-payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the annual percentage rate of interest being charged on such day for the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rate" on such day (or if not published on such day the most recent preceding day on which published), plus two percent (2%), or the maximum rate lawfully payable by the Participant, whichever is less. If the due date is Saturday, Sunday or a bank holiday, the next following business day shall be the last day on which payment may be made without the addition of the delayed-payment charge.

(f) In the event of any dispute as to any portion of any monthly statement, the Participant shall nevertheless pay the full amount of the disputed charges when due and

shall give written notice of the dispute to MPPA not later than the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. MPPA shall give consideration to such dispute and shall advise the Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be subtracted from the statement next submitted to the Participant after such determination.

(g) Project Energy Related Costs, and Transmission Utilization Adjustment Costs, including any adjustments thereto, shall be determined by MPPA in accordance with the applicable provisions of this Power Sales Contract, the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, respectively. The Participant shall pay such amounts pursuant to paragraphs (b) and (d) of this Section 4.

(h) The obligation of the Participant to make the payments under this Section 4 for Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs shall constitute an obligation of the Participant payable as an operating expense of the Participant's electric system solely from the revenues and other available funds of the electric system, and such payments shall be made for any Month during any part of which Belle River was in service. Payments required to be made by the Participant under this Power Sales Contract are conditioned on power and energy being made available to the Participant. Accordingly, the Participant shall not be required to make any payment with respect to any Month during which Belle River is wholly out of service for the entire Month. For any Month during any portion of which Belle River is in service, the obligations of the Participant to make such payments shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not,

except as provided in this paragraph (h), be conditioned upon the performance by MPPA under this or any other agreement or instrument.

(i) The amount, if any, transferred pursuant to the Bond Resolution from the General Reserve Fund to the Revenue Fund during any Month shall be credited against Monthly Power Costs and Monthly Transmission Costs for such Month in the proportion that Debt Service for such Month on Bonds allocated to Belle River and on Bonds allocated to Belle River Transmission, respectively, bears to the aggregate of Debt Service on all Bonds for such Month.

(j) MPPA shall use its best efforts to collect or cause to be collected and shall apply to the retirement of Bonds allocated to Belle River or to Belle River Transmission, as appropriate, by purchase or redemption, to the extent not credited or to be credited against the Cost of Acquisition and Construction or required to be otherwise applied under the Bond Resolution, all receipts, revenues and other moneys received by it or credited to it from insurance proceeds, condemnation awards damages in connection with the construction of Belle River and Belle River Transmission collected from contractors, subcontractors or others and proceeds from the sale or other disposition of surplus property, all related to the Belle River Project. MPPA shall apply interest earned on investments held under the Bond Resolution to the extent not credited against the Cost of Acquisition and Construction in accordance with the Bond Resolution.

#### **SECTION 5. Scheduling of Deliveries.**

The Participant shall be entitled to the production of electric capacity and energy to which the Participant is entitled under this Power Sales Contract. Subject to the applicable provisions of the Belle River Participation Agreement, MPPA shall use its best efforts to schedule or cause to be scheduled such production.

#### **SECTION 6. Point of Delivery.**

Capacity and energy scheduled by the Participant pursuant to Section 5 of this Power Sales Contract will be delivered at the Participant's Point of Delivery. The Participant