RULE K
REQUIREMENTS RELATING TO ESSs

1. Purpose

A. **Generally**

Prior to providing Electricity Service to Customers, an Electricity Service Supplier (ESS) must be certified by the Commission, if applicable, and meet the Company's requirements for providing service. The Company may provide information to the Commission certification process, if applicable, regarding the ESS's scheduling capabilities, electronic data transmission capabilities, insurance coverage and credit. **(T)**

B. **Requirements for Providing Service**

To provide Electricity to a Customer an ESS must:

1) Be certified by the Commission, if applicable;
2) Complete the Company's business application form and submit an Application Processing Fee or Renewal Fee as listed in Schedule 600;
3) Establish creditworthiness as set forth in the ESS Credit Requirements provision of this rule;
4) Demonstrate the capability to meet the information exchange requirements of the Company.
5) Name the Company as an additional insured in the amount of at least $10 million on the ESS's general liability policy;
6) Execute an ESS Service Agreement with the Company confirming the terms and conditions of the service(s) elected and agree to abide by the terms and conditions of the Company's Tariff and the Oregon Administrative Rules;
7) If a Scheduling ESS, execute a transmission service agreement under the Company's Open Access Transmission Tariff; and
8) If a Non-Scheduling ESS, provide the name of the Scheduling ESS.

2. ESS Credit Requirements

A. Credit Review/Applicability

An ESS's participation in Direct Access Service is contingent upon meeting and maintaining the credit requirements set forth in this Tariff and the applicable ESS Service Agreement. The Company will determine whether the ESS meets the Company's initial creditworthiness requirements as set forth below, and advise the Commission whether the ESS has been credit approved or not. The Company will enter into an ESS Service Agreement after ESS's credit has been established, collateral has been obtained and ESS certification by the Commission is complete. The Company will continue to monitor the ESS creditworthiness to determine continuing compliance under the minimum credit requirements.

B. Credit Exposure

An ESS must establish and maintain creditworthiness relative to the Company's credit exposure to the ESS. Credit exposure will include, but not be limited to, the expected liabilities of the ESS.

C. Establishment of Credit

An ESS must establish its creditworthiness as described below.

1) **Creditworthiness Requirements**

Each ESS, or guarantor, must meet the Company's creditworthiness requirements by satisfying all of the criteria below. An ESS who cannot meet the requirements below will provide a collateral deposit as described in item (4) below.

a) **Credit Evaluation**

An ESS seeking to enter into a new ESS Service Agreement with the Company must complete a credit application to provide the financial information necessary to conduct a credit evaluation and establish the ESS's initial credit profile. The Company may require an ESS to complete a new or revised credit application if the ESS's ESS Service Agreement has been terminated, was not renewed, or in any other manner was caused to lapse; if the ESS no longer meets the minimum credit criteria; or periodically based on the Company's standard commercial practice.

The credit evaluation will be conducted by the Company. This evaluation will be completed within 10 Business Days from the Company's receipt of a completed credit application and all relevant financial statements. All information required to evaluate credit will remain strictly confidential between the ESS and the Company, except as otherwise required by law. The Company will notify the Commission of its credit decision upon completion of the Company's credit review. All credit evaluations and associated collateral deposit calculations performed by the Company will be done in a non-discriminatory and consistent manner.

b) **Required Credit Information**

Each ESS and guarantor (if applicable) will be required to provide the following information: (1) completed credit application; (2) three years of annual, audited financial statements; and (3) the latest interim financial statements along with the same interim financial statements from the prior year.

c) **Rating Agency**

An ESS and guarantor (if applicable) must demonstrate a current and maintained long-term, senior unsecured debt rating of Baa3 or higher from Moody's Investor Service (Moody's) or BBB- or higher from Standard and Poors (S&P).

d) **Tangible Net Worth**

An ESS and guarantor (if applicable) must maintain a minimum Tangible Net Worth of $750 million dollars and demonstrate a minimum Tangible Net Worth of $750 million dollars for the prior two-year period. Tangible Net Worth is defined as net worth minus intangibles such as goodwill and rights to patents or royalties.

e) **Credit History**

An ESS and guarantor (if applicable) must not be currently in default under any of its agreements with the Company or under any of its other agreements, and must be current on all of its financial obligations. An ESS and guarantor (if applicable) must pay all past due amounts owed to the Company before credit is established.

2) **Unsecured Credit**

For an ESS and guarantor (if applicable) whose creditworthiness is established by satisfying the above requirements, an unsecured credit limit may be established by the Company. **(C)**

The Company may increase or decrease the unsecured credit limit on a case by case basis using accepted commercial credit standards and based on the following criteria: (1) adequate financial statements: (2) credit payment history; and (3) business fundamentals, which includes review of (a) market position; (b) litigation and contingencies; (c) organization; and (d) strategic and financial support. The Company will monitor the established creditworthiness utilizing these factors on an on-going basis. **(D)** **(C)**

3) **Collateral Requirements**

The ESS will be required to post or increase collateral under any of the following conditions:

a) The ESS does not meet the minimum creditworthiness standards established above;

b) The ESS fails to provide the Company sufficient relevant credit and financial information on an ongoing basis as required in this Tariff and the ESS Service Agreement;

c) The ESS experiences a material adverse change. A material adverse change is defined as the occurrence of any of the following events: (1) the ESS's long-term senior, unsecured debt rating is downgraded by either S&P or Moody's below BBB- and Baa3, respectively, or (2) a change in condition (financial or otherwise), net worth, assets, or properties which can reasonably be anticipated to impair the ESS's ability to fulfill its payment and credit obligations; or

d) The Company's total credit exposure to the ESS exceeds the ESS's unsecured credit limit and/or any existing Collateral Deposit.

4) **Collateral Deposits**

If collateral is required, the ESS will submit and maintain a collateral deposit as described below.

a) **Amount of Collateral Deposit**

The amount of the collateral deposit required to establish credit will be the sum of the following amounts as applicable:

(i) For ESSs billing customers for services provided by the Company, three times the estimated maximum monthly customer charges owed by the ESS to the Company, where such estimate is based on the usage and Tariff prices expected to prevail over the next 12 months;

(ii) All other charges from the Company to an ESS as estimated over a 90 day period; and

(iii) All invoiced and non-invoiced receivables due from the ESS; or

(iv) Not less than $500,000.

b) **Form of Collateral Deposit**

Collateral deposits will be in the form of (1) cash deposits, (2) Letters of Credit, defined as irrevocable and renewable issued by a major financial institution acceptable to the Company, or (3) guarantees, with guarantors who have a long-term senior, unsecured debt rating of Baa3 or higher from Moody's or BBB- or higher from S&P, unless the Company determines that a material change in the guarantor's creditworthiness has occurred, or, in other cases, through the credit evaluation process described above.

c) **Collateral Deposit Payment Timetable**

ESSs are obligated to post collateral deposits with the Company prior to entering into an ESS Service Agreement. Collateral deposit increases and/or adjustments must be received within two calendar days of a request from the Company. Collateral deposits must be established, maintained or extended within five days of expiration of a collateral deposit.

d) **Interest on Cash Deposit**

The Company will pay interest on cash collateral deposits. Interest will be calculated according to the interest rate prescribed in Schedule 300.

5) **On-going Maintenance of Credit**

a) The Company may review the ESS's creditworthiness, credit limits and the Company's credit exposure on a daily basis. The Company may request an increase in the collateral deposit by providing notice to the ESS that an increase is required as the ESS enrolls additional Customers, the ESS no longer satisfies the minimum criteria commensurate with its unsecured credit line as described above, the Company draws on the collateral deposit or a portion of the collateral deposit pursuant to this Section or the ESS Service Agreement, and/or the Company's credit exposure to the ESS increases.

b) To assure continued validity of established unsecured credit, the ESS will promptly notify the Company if the ESS (i) experiences any material adverse change; (ii) has its long-term, senior unsecured debt rating downgraded by Moody's and/or S&P; (iii) experiences a change in control as a result of merger or consolidation; (iv) sells or transfers a material portion of its assets; or (v) proposes to change its designation from Non-Scheduling to Scheduling or vice versa.

c) The ESS will provide to the Company an updated credit application reflecting current financial and business information pursuant to the terms of this Section; upon the occurrence of any event listed in Section (2)(C)(3)(c); if the ESS has been suspended pursuant to the terms of the ESS Service Agreement; to support a request for an increased credit line; or as the Company may reasonably require on a quarterly basis.

d) The ESS will review and maintain its collateral and establish, extend or increase collateral when required pursuant to this Section.

e) All collateral amounts will be adjusted up or down to the nearest integral multiple of $25,000, but never less than the required initial collateral deposit at the time the ESS enters into and signs an ESS Service Agreement. The Company will notify the ESS of any needed adjustments.

6) **Re-establishment of Credit**

An ESS whose ESS Service Agreement has been suspended due to inadequate credit may re-establish its creditworthiness in the manner prescribed in item C above.

D. **Additional Documents**

The ESS will execute and deliver all documents and instruments (including, without limitation, security agreements and Company financing statements) reasonably required from time to time to implement the provisions set forth above and to perfect any security interest granted to the Company.

3. Electronic Data Transfer Interchange (EDI)

All electronic communications between the Company and the ESS must conform to industry standard electronic data interchange protocols. The ESS must demonstrate its ability to successfully exchange test data for all transactions before the first Direct Access Service Request (DASR) is processed. The ESS will also provide a point of contact to resolve daily electronic data interchange problems. If the ESS is certified, but does not have active enrollments within a six-month period, the Company will request that the ESS retest the interchange.

The ESS must notify the Company of plans to modify its electronic data interchange systems such as the installation of new software or upgrades to software as well as any plans to change system subcontractors when such plans may affect data transfers between the Company and the ESS. The Company may require retesting of data transfers under such circumstances. Where retesting is required, the ESS will be subject to the set-up and verification charge contained in Schedule 600.

When the Company makes any changes to its interchange systems or changes subcontractors, it will promptly notify all ESSs. If the changes require retesting of systems, the Company will not charge ESSs for this testing.

4. Electricity Service Supplier Decertification

A. **Notice to ESS**

The Company may recommend to the Commission decertification of an ESS that the Commission has certified at times other than the annual renewal date. The Company will notify the ESS that it is initiating such action, if applicable.

B. **Criteria for Recommending Decertification**

The Company may recommend decertification, if applicable, of an ESS to the Commission when the ESS fails to comply with the terms and conditions under this Tariff, or fails to perform obligations under the transmission service agreement or ESS Service Agreement. The following are examples of when the Company may recommend decertification of an ESS:

1) Failure to submit an Electricity Schedule that meets the requirements of Section 11;
2) Failure to deliver Electricity according to its Electricity Schedule;
3) Submission of a DASR not authorized by a Customer;
4) Failure to conform with industry electronic data interchange protocols;
5) Failure to comply with Federal Energy Regulatory Commission (FERC), North American Electric Reliability Council (NERC) and Western Electricity Coordinating Council (WECC) operating procedures;
6) Failure to pay for services rendered by the Company;
7) The ESS makes a general assignment or arrangement for the benefit of creditors;
8) The ESS becomes bankrupt, a debtor in a bankruptcy proceeding, insolvent, however evidenced, or is unable to pay its debts as they fall due;
9) The ESS files a petition or otherwise commences a proceeding under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;
10) The ESS has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets;
11) Evidence that indicates the ESS has violated any state or federal customer protection laws or rules, including antitrust laws, during the past three years;
12) The ESS has materially failed to meet its obligations under terms of the ESS Service Agreement so as to constitute an event of default;

13) The ESS engages in unauthorized use of Electricity or a Customer of the ESS engages in unauthorized use of Electricity and the ESS knew about it;

14) Failure to provide a complete, accurate and truthful credit application;

15) Failure to maintain credit requirements; and

16) At the general discretion of the Company.

C. **Notice to Customers**

The Company, upon consultation with the Commission, may transfer the ESS's Customers to the applicable Utility Provided Service prior to ceasing to provide service to the ESS. The Company will notify the ESS's Customers of the transfer in writing as soon as possible. The ESS will be charged a Switching Fee for each Customer transferred as listed in Schedule 600.

D. **Decertification**

Upon decertification, the ESS may no longer serve Customers, and all amounts billed or owed by the ESS are immediately due. The Company will move all Customers served by the ESS to Emergency Default Service and the ESS will be charged the Switching Fee listed in Schedule 600 for each Service Point (SP) **(C)**
that moves to Emergency Default Service.

5. Pre-enrollment Information Provided to ESS

With the Customer's authorization, the Company may provide account-specific information, including one year of monthly usage history but excluding credit information, to an ESS. The ESS will be charged the ESS Web Portal Data Access Fee as listed in Schedule 600 for such requests.

6. Customer Enrollment

A. **ESS/Company Relationship**

The ESS may not state or in any way imply that it has been given preferential status by the Company.

B. **ESS Liability**

The ESS will defend, indemnify and hold the Company harmless against all claims of loss made by any Customer arising from claims of inappropriate switching from the Company or another ESS in violation of the solicitation or verification provisions of the Commission, regardless of whether the person or entity doing the marketing or solicitation was an independent contractor of the ESS.

C. **Enrollment DASR**

The ESS must submit to the Company an Enrollment DASR which, at a minimum, includes the Customer's name, Company account number, service address, mailing address, type of service being purchased, name of the ESS, name of Scheduling ESS if different, proposed effective date, Customer's billing preference, and Service Point Identification (SPID) for each Customer that elects **(C)**
service from the ESS.

1) Unless the Company deems otherwise, the Company will activate only one (1) Enrollment DASR per SPID per meter reading cycle. When **(C)**
multiple Enrollment DASRs for the same SPID are received during the **(C)**
same meter reading cycle, the Company will activate the first Enrollment DASR received. The Enrollment DASR must be submitted at least 13 business days prior to the effective date. The Company will notify the ESS of Enrollment DASR acceptance or rejection within three business days of its receipt. For Enrollment DASRs submitted during an enrollment window, the three business day notice period does not begin until the end of the enrollment period. The Company will notify the ESS as to the date the Customer will begin Direct Access Service once interval metering is verified.

2) The Company will charge the ESS the Switching Fee listed in Schedule 600 for each Enrollment DASR received whether accepted or rejected.

3) Upon acceptance of an Enrollment DASR the Company will provide notice within three business days to the Customer's current ESS, if any, of the pending change to a new ESS.

D. **Refusal of Enrollment DASR**

The Company may refuse to accept an Enrollment DASR when:

1) The Company has not received full payment from the Customer for past-due amounts or other obligations owed by it related to regulated charges from the Customer's prior Electricity Service account(s) unless such charges are part of a pending Customer dispute;
2) The Company has not received full payment or the Customer has not made an arrangement to pay the balance owed by the Customer on an existing Budget Payment Option or other agreements;
3) The Enrollment DASR is not accurate and/or complete;
4) The ESS has not complied with provisions of the ESS Service Agreement;
5) The Customer has not completed any term obligation under Standard Service; or
6) The ESS is not certified by the Commission.

E. **Change DASR**

A Change DASR must be submitted when the ESS is requesting a modification. The Change DASR requires up to 13 business days to process. The Change DASR may only be submitted after receipt of the assigned effective date of the information subject to modification and must be submitted at least 13 business days prior to the requested effective date of the Change DASR. There is no charge for submitting a Change DASR. However, when a Change DASR is submitted to change the assigned enrollment effective date to a date that is not a regular meter read date, a Change of Effective Date charge as listed in Schedule 600 will be imposed.

F. **Other DASRs**

The Other DASR forms are as follows:

1) **Rescind DASR**

A Rescind DASR is a request to withdraw an Enrollment DASR and it must be submitted prior to the issuance of an Direct Access effective date. No charge is assessed for a Rescind DASR. A Rescind DASR requires three business days to process. If the Company does not have three business days to process before the effective date is issued, a Cancel DASR is required.

2) **Cancel DASR**

A Cancel DASR is a request for cancellation of Direct Access Service that has been submitted after the Direct Access Service effective date has been issued. No charge is assessed for a Cancel DASR. A Cancel DASR requires three business days to process. Failure to provide adequate notice may require the Customer to take Direct Access Service and/or move to Emergency Default Service until processing is complete.

3) **Drop DASR**

A Drop DASR is a request to stop Direct Access Service and return to Standard Service or to close the service account. A Drop DASR must be submitted at least 13 business days before the requested effective date. Failure to provide adequate notice may require the Customer to continue Direct Access Service and/or move to Emergency Default Service until the Drop DASR process can be completed. The Customer or ESS, whichever initiates the Drop DSAR, is charged the Switching Fee as listed in Schedule 300 or Schedule 600.

The Company may submit a Rescind, Cancel, or Drop DASR on behalf of the Customer to nullify an Enrollment DASR submitted for a Customer without their consent. The Customer will not be charged the Schedule 300 Switching Fee and the Customer's service will not be switched regardless of the required processing timeframes described above.

G. **Customer Information**

The Customer consents to the release by the Company to its ESS monthly usage data when it agrees to take Direct Access Service. Upon acceptance of an Enrollment DASR, the Company may provide to the ESS account-specific information, including one year of monthly usage history, excluding credit information.

H. **Return of Customer Deposits**

Following acceptance of an Enrollment DASR, the Company will return any Customer deposit, net of any amounts owing when the ESS is providing Consolidated Billing. When the Company is continuing to bill the Customer or the Customer has requested split billings between the ESS and the Company, the Company will retain the portion of the deposit appropriate for two months of regulated Electricity Service billings from the Company and credit the excess deposit, if any, to the Customer's account.

I. **Customer Change of Location**

When a Customer moves 100% of its operation from an existing service location enrolled under Direct Access to a [single] new service location and elects to continue Direct Access Service at such new service location ("Change of Location"), the Customer's ESS must submit a Drop DASR for the existing/old service location and an Enrollment DASR for the new service location. Customer requests for a Change of Location will not be considered should the change occur more than 12 months after the old location has been vacated, regardless of whether the service at such old location is nominal or idle or has been discontinued. (C)

The following additional criteria will be applicable to a Customer's Change of Location: (T)(M) (T)

1) The Customer and the ESS must provide written notice to the Company of the intended Change of Location. After processing the written request, the Company will notify the ESS when to send the Drop DASR for the existing/old location and the Enrollment DASR for the new location; (C) (C) (C)(M)

2) For a customer with multiple locations, the projected monthly consumption patterns of the new location will be similar to the prior location;
3) The account for the existing/old location must be: (1) closed, (2) placed on the PGE Daily Price Option prior to the new location receiving service under the terms and conditions of the applicable direct access schedule, (3) idle (i.e. no usage), or (4) placed on Cost of Service with demonstrated nominal use consistent with a vacated location. The Schedule 128 Annual Short-Term Transition Adjustment will apply to the old location if the account is placed on the PGE Daily Price Option under the second option. With respect to the third and fourth options, the Customer carries the burden to demonstrate that the old location is idle or the usage at such location is nominal and consistent with the location being vacated;
4) For Schedules 485, 489, and 490, the new location must be expected to have a Facility Capacity of at least 250 kW;
5) Consistent with the terms and conditions of Customer's Long-Term Cost of Service Opt-Out Agreement, the enrollment period vintage of the existing/old location and the associated Schedule 129 Long-Term Transition Adjustments will be transferred to the Customer's new service location, as applicable;
6) The new service location may be temporarily served under the provisions of the PGE Market Based Pricing Option until such time that the transfer of service location may be effectively executed;
7) The ESS will pay all applicable Schedule 600 charges.

7. <u>ESS Service to Single Service Point</u> **(C)**

Only one ESS may serve any single Service Point (SP). If the Customer is receiving products and services from more than one ESS, the ESS that submitted the accepted Enrollment DASR is responsible for the coordination of services including, but not limited to billing, payment, delivery and scheduling. **(C)**

8. Discontinuance of ESS Service **(M)**

Upon determination by an ESS that it will discontinue service to a Customer because of nonpayment of charges or other reasons provided for in the ESS/Customer Agreement, the ESS will provide the Company with ten business days' notice of such discontinuance. The Company will subsequently move the Customer to Standard Service in the absence of an accepted Enrollment DASR. The Switching Fee listed in Schedule 600 will be charged to the ESS in conjunction with moving the Customer to Standard Service.

9. Company Billings to the ESS

The ESS is responsible for payment of all charges assessed to it by the Company. All bills issued under this Tariff are due and payable through electronic payment within 15 days of presentation. Billings unpaid by the due date are subject to a late payment charge as described in Schedule 600. When the ESS disputes charges assessed to it by the Company, the ESS is still responsible to make payment of such charges within 15 days of presentation.

10. Processing of Payments

Unless otherwise specified, the Company will allocate payments from ESSs in the following order:

(1) Past due deposits or installments;

(2) Required deposits currently due;

(3) Past due regulated charges for Electricity Services;

(4) Current regulated charges for Electricity Services;

(5) Past due charges for optional services by oldest date first; and

(6) Current charges for optional services.

11. ESS Scheduling Responsibilities

At least one day prior to the Day of Flow, in accordance with the ESS Service Agreement and transmission service agreement, each Scheduling ESS will provide the Company with an Electricity Schedule of the expected aggregated hourly load requirements of the Customers for which it has scheduling responsibility subject to the following terms and conditions: **(M)**

A. **Scheduling Period: Day of Flow** (M)

Each daily scheduling period will begin at the hour ending 0100 and end at the 2400 hour under Pacific Prevailing Time (Pacific Standard Time or Pacific Daylight Time, as applicable, "PPT").

B. **Changes in Load**

The Company may require a Scheduling ESS to change its Electricity Schedule if the Company determines the Electricity Schedule does not adequately represent the expected ESS Customer load. If a Customer or Customers are served under an interruptible arrangement by the ESS, the ESS will notify the Company of any interruption coincident with its notification to those Customers and will adjust its Electricity Schedule accordingly.

C. **Failure to Schedule**

An ESS that fails to submit an Electricity Schedule is subject to applicable charges and immediate termination of the ESS Service Agreement. The Customers served by the ESS will be moved to Emergency Default Service.

D. **Confirmation**

The Company reserves the right to confirm with appropriate transmission service providers each Electricity Schedule provided by ESSs and to reject any Electricity Schedule that cannot be confirmed.

E. **Conformance with Regional Requirements**

The ESS will conform to FERC, NERC and WECC scheduling, operating and reporting requirements.

F. **ESS Control Information**

An ESS that chooses to self-provide ancillary services will provide the Company a real-time load and power factor signal via electronic means.

12. Company Scheduling Responsibilities

A. **Change in Load**

The Company will notify an ESS as soon as practical of a planned outage when such outage affects its Customer(s) with a load greater than one megawatt. (M)

B. **Major Outage Procedures** (M)

The Company will attempt to maintain system balance during a major outage using all appropriate methods available according to utility practices. The Company may require an ESS to reduce its Electricity Schedule in the event of a major loss of load due to a major outage consistent with the Company's resources. In such case, the Company will notify the ESS when it can resume normal scheduling. The Company will waive related imbalance penalty adjustment provisions during such event. The Company is responsible for responding to inquiries related to major outages. Customers who contact their ESS regarding major outages should be referred to the Company.

13. Settlement

The Company will reconcile total Electricity delivered by the ESS with the total Electricity consumed by the Customers for which the ESS has scheduling responsibility in accordance with Schedule 600 of this Tariff. Customer Electricity consumption will be measured accordingly:

A. **Interval-Metered Electricity**

Where the Customer has an interval-meter installed, Electricity consumed is equal to the metered quantity plus losses as specified in Schedule 600.

B. **Profiled Electricity**

Where interval-meter data is missing, hourly consumption will be estimated using load profiles and adjusted based on available metered data plus losses as specified in Schedule 600. For unmetered loads, consumption will be based on a test or estimated from equipment ratings, adjusted for losses, and allocated to each hour based on hours of usage and whether the equipment is operational during that hour.

14. Operational Order to Deliver Electricity

A. **General**

An “Operational Order to Deliver Electricity” may be issued by the Company upon one hour’s notice for purposes of maintaining the integrity of its electrical distribution system.

(M)

B. **Action by the ESS** (M)

Upon receiving an Operational Order to Deliver Electricity, the ESS will endeavor to deliver its full capability for all its Customers served by adjusting its Electricity Schedule.

C. **Compensation**

The Company will waive all energy imbalance service charges and penalty provisions for an ESS that demonstrates substantial compliance with an Operational Order to Deliver Electricity. Compensation for excess Electricity delivered in accordance with the Company's Operational Order to Deliver Electricity will be at a rate equal to the higher of:

1) The ESS's direct cost of such Electricity; or
2) The highest incremental cost of Electricity purchased by the Company during each hour of the Operational Order to Deliver Electricity.

15. Preemption

In addition to an Operational Order to Deliver Electricity, the Company may take automatic or manual actions that, in its opinion, are necessary or prudent to protect the performance, integrity, reliability or stability of its electrical system or any electrical system with which it is interconnected. During such period, delivery of Electricity to Customers may be curtailed or interrupted by the Company even though the ESS continues to supply Electricity to the Company. The payment for such Electricity will be made at a rate equal to the higher of:

A. The ESS's direct cost of such Electricity; or
B. The highest incremental cost of Electricity purchased by the Company during each hour of the preemption.

16. Dispute Resolution

A Dispute Resolution process is contained in the ESS Service Agreement. (M)

RULE K (Concluded)