

**COMPETITIVE SERVICE PROVIDER AGREEMENT
FOR APPALACHIAN POWER COMPANY'S
VIRGINIA RETAIL ACCESS PROGRAM**

THIS AGREEMENT is made and entered into as of _____, 20__, between Appalachian Power Company, a Virginia corporation ("Company") and _____, a _____ ("CSP"). The Company and the CSP are sometimes herein referred to individually as a "Party" or collectively as the "Parties."

WITNESSETH:

WHEREAS, the Company is a public utility subject to the jurisdiction of the Virginia State Corporation Commission ("Commission") as to retail electric service provided within its Virginia service territory;

WHEREAS, the Commission, has promulgated the Rules Governing Retail Access to Competitive Energy Services, 20 VAC-5-312-10 through 20 VAC-5-312-120; and the Rules Governing Exemptions to Minimum Stay Requirements and Wires Charges, 20VAC 5-313-10 through -40 of the Virginia Administrative Code (collectively, the "Rules").

WHEREAS, the CSP i) intends to offer and sell one or more competitive energy services as are authorized in the Rules to be performed by a CSP ("Competitive Energy Services") within the Company's service territory and (ii) has been issued License _____ by the Commission to provide Competitive Energy Services to customers in Virginia; and

WHEREAS, an agreement between the Company and the CSP is needed as part of the Company's CSP registration process to establish and govern the business relationship between the Parties under the Company's Choice Program.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, and subject to the terms and conditions herein contained, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS.

1.1 Whenever used herein, the following terms shall have the respective meanings set forth below, unless a different meaning is plainly required by the context:

- A. "AEPCH" shall mean the Market Data Clearing House operated by AEP, which coordinates and communicates data related to such things as, but not limited to, enrollment and switching; estimation and reconciliation; settlement; and billing and reporting.
- B. "Agreement" shall mean this Competitive Service Provider Agreement for Appalachian Power Company's Virginia Choice Program.
- C. "Business Day" shall mean any calendar day or computer processing day in the Eastern U.S. time zone, on which the general office of the Company is open for business with the public.
- D. "Choice Program" shall mean the program implemented by the Virginia State Corporation Commission to provide electric utility customers with choice pursuant to the Virginia Electric Utility Restructuring Act of 1999.
- E. "Commission" shall mean the Virginia State Corporation Commission.
- F. "Company's Retail Tariff" shall mean the Company's tariff on file with the Commission, including all standard terms and conditions of service, terms and conditions of service for Choice Program participants, and open access distribution rate schedules.
- G. "EBT" shall mean electronic business transactions.
- H. "EDI" shall mean electronic data interchange.
- I. "FERC" shall mean the Federal Energy Regulatory Commission, or any successor thereto.
- J. "PJM" shall mean PJM Interconnection, L.L.C.
- K. "PJM OATT" shall mean the Open Access Transmission Tariff of PJM or any successor thereto, on file with the FERC.

- 1.2 Additional definitions controlling this Agreement are contained in the Rules and/or the Company's Retail Tariff, or appear in subsequent parts of this Agreement, as required.
- 1.3 Unless the context plainly indicates otherwise, words imparting the singular number shall be deemed to include the plural number (and vice versa); terms such as "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Agreement rather than any particular part of the same.

ARTICLE 2. SCOPE OF AGREEMENT.

- 2.1 The Parties are bound by the terms set forth herein and otherwise incorporated herein by reference.
- 2.2 This Agreement shall govern the business relationship between the Parties and constitutes a part of the Company's registration process, the successful completion of which is necessary before the CSP is authorized to begin providing one or more Competitive Energy Services in the Company's Virginia service territory.
- 2.3 This Agreement does not cover any transmission or ancillary services that are necessary to provide any Competitive Energy Service. Any such services shall be obtained, either by the CSP or its customer, in accordance with the PJM OATT, as required by the Company's Retail Tariff.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES.

- 3.1 The Company represents and warrants that it is a public service corporation, duly organized and existing under the laws of the Commonwealth of Virginia.
- 3.2 The CSP represents and warrants that it is a _____, duly organized and existing under the laws of the State of _____, and that it is authorized to do business, and is in good standing, in the Commonwealth of Virginia.
- 3.3 The CSP will provide Competitive Energy Services to (i) electricity customers whose demand during the most recent calendar year exceeded five megawatts but did not exceed one percent of the Company's peak load during the most recent calendar year (unless such customer had non-coincident peak demand in excess of 90 megawatts in calendar year 2006 or any year thereafter); and / or) (ii) two or more individual nonresidential retail customers that aggregate demand to exceed five megawatts to become qualified to purchase electric energy competitively, and that petition and receive from the Commission approval to combine or aggregate their demands. If the CSP will provide electric energy to any customer that would fall outside the above two categories,

the CSP represents and warrants that it will provide electricity supply service provided 100 percent from renewable energy in accordance with § 56-576 and § 56-577 A 5 of the Code of Virginia.

3.4 Each person executing this Agreement for the respective Parties expressly represents and warrants that he or she has authority to bind the entity on whose behalf this Agreement is executed.

3.5 Each Party represents and warrants that (a) it has the full power and authority to execute and deliver this Agreement and to fulfill its terms and conditions; (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party; and (c) this Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms; subject to any defenses in bankruptcy, insolvency, reorganization, or other laws affecting creditors' rights generally, and with regard to equitable remedies as determined by the court before which proceedings to obtain the same may be pending.

3.6 Each Party represents and warrants that there are no actions at law, suits in equity, proceedings or claims pending against it before any federal, state, foreign or local court, tribunal or government agency or authority that might materially delay, prevent or hinder the performance of its obligations hereunder.

3.7 Each Party represents and warrants that it is and shall remain in compliance with all applicable laws and tariffs, including applicable rules and regulations of the Commission.

3.8 The CSP represents and warrants that it has obtained a license from the Commission to provide one or more Competitive Energy Services to retail customers located within the Company's Virginia service territory under the Choice Program, and that it will maintain that license in good standing throughout the life of this Agreement.

3.9 The CSP represents and warrants that the information provided by the CSP in the Provider Registration Application is true and accurate. The CSP further represents and warrants that, within 21 days of becoming aware of such facts, it will notify the Company in writing, in accordance with Article 15 hereof, if there are any material or significant changes in the financial or credit information supplied to the Company on the CSP's Provider Registration Application, or if there are any material changes to any other information supplied on that Application.

3.10 The CSP represents and warrants that it will obtain authorization from each of its customers or

prospective customers before it seeks to obtain from the Company any customer usage information not included on the Company's Virginia mass customer list.

- 3.11 If either Party learns that any of its representations and/or warranties contained in this Agreement have been are false or misleading in any material aspect, such Party shall immediately notify the other Party in writing.
- 3.12 All representations and warranties contained in this Article 3 shall continue for the term of this Agreement.

ARTICLE 4. OBLIGATIONS OF THE PARTIES.

- 4.1 The Parties shall cooperate in order to ensure the provision of any Competitive Energy Service by the CSP to the Company's customers in accordance with the Rules, the Company's Retail Tariff, and the PJM OATT, as applicable.
- 4.2 The Parties shall supply to each other all data, materials or other information specified in this Agreement, or that may otherwise be reasonably required by the CSP or the Company in connection with their obligations under this Agreement, in a thorough and timely manner. The CSP will comply with any and all information and data transfer protocols (including EBT and EDI standards) that may be adopted, and modified from time to time, by either the Company or the AEPCH. The CSP will also comply with any reasonable requirements of the AEPCH regarding the coordination and communication of information and/or data transfers.
- 4.3 The CSP shall (a) obtain and maintain a license from the Commission and any licenses, permits or other authorizations from any other federal, state or local agencies required to offer and/or sell Competitive Energy Services in the Company's Choice Program; and (b) complete all applications and/or forms, and execute any agreements required for the CSP's participation in the Company's Choice Program; and (c) demonstrate to the Company, prior to enrolling any customers, that the CSP has the requisite technical competence (*e.g.*, communication capabilities) to comply with EBT and EDI standards for the exchange of information, as set forth, and modified from time to time, by either the Company or the AEPCH; and, (d) if required, provide to the Company, and maintain during the term of this Agreement, the type (in the format and amount specified by the Company) of financial security (*i.e.* collateral) reasonably required by the Company to safeguard the Company and its customers from losses or additional costs incurred due to any non-performance on the part of the CSP. The amount of such financial security shall be commensurate

with the level of risk assumed by the Company, and it will provide reasonable and satisfactory assurance to Company of the CSP's ability to pay various amounts (CSP fees, charges, or, if applicable, penalties). CSP may appeal the Company's determination of financial security requirements to the Commission or seek Staff mediation as to any dispute. The foregoing requirements represent conditions precedent to the Company's obligations hereunder.

ARTICLE 5. LOAD PROFILES.

5.1 During the term of this Agreement, the Company intends to post average customer load profile information for classes that will utilize load profiling to its website at <http://www.appalachianpower.com>. These profiles are for informational purposes only and the Company makes no representations or warranties of any kind regarding either the availability or use of such load profiles.

ARTICLE 6. CONFIDENTIALITY OF INFORMATION.

6.1 Both the Company and the CSP will comply with the provisions of 20VAC5-312-60. governing the treatment of customer information. The CSP shall adequately safeguard all customer information and shall not disclose such information unless the customer authorizes disclosure in accordance with 20 VAC 5-312-60 A.

6.2 All Company information made available by the Company to the CSP pursuant to this Agreement, including, without limitation, class load profile data and information regarding the Company's computer systems or communications systems, shall not be disclosed to third parties without prior written consent from the Company. If CSP has a representative (e.g. CSP supplier) whose access to Company information is necessary to support CSP's operations, CSP will be permitted to disclose Company information to such representative, provided, that, such CSP representative is informed about and agrees to the confidentiality restrictions contained in this Agreement, and CSP and the CSP representative agrees to be responsible for any breach of the confidentiality obligations under this Agreement by any CSP representatives.

6.3 If the CSP or CSP representative becomes legally compelled to disclose any of the information required to be kept confidential pursuant to Sections 6.1 and 6.2, the CSP shall immediately notify the Company of the required disclosure. In such case, the CSP shall cooperate with the Company to enable it to obtain protective treatment of the information. If the CSP or CSP

representative is nonetheless required to disclose information, the CSP or CSP representative shall furnish only that portion of the information which is legally required.

ARTICLE 7. SEPARATE BILLING

7.1 The Parties agree that a customer of the CSP shall receive two separate bills, one from the Company, and one from the CSP containing each of their respective billing charges (“Separate Billing”).

ARTICLE 8. EFFECTIVE DATE AND TERMINATION OF AGREEMENT.

8.1 The term of this Agreement shall commence on the (“Effective Date”) above and shall continue for a period of one year, unless sooner terminated as provided in Section 8.2. Notwithstanding the Effective Date, the CSP acknowledges that it may not begin supplying any Competitive Energy Services prior to the time it is in compliance with the provisions of this Agreement, the Rules, and the Company's Retail Tariff.

8.2 This Agreement shall or may be terminated as follows:

8.2.1 In the event the CSP permanently ceases to provide any Competitive Energy Service to customers in the Company's service territory or otherwise withdraws from the Choice Program, and so notifies the Company in writing in accordance with the notice requirements of Article 15, this Agreement shall terminate thirty (30) days following the date on which the CSP permanently ceases to have any active customers; provided, further, such termination shall not extinguish any remaining or outstanding obligations of the CSP to Company.

8.2.2 In the event of a Default (as defined in Section 9.1 of Article 9) by either Party (“Defaulting Party”), the other Party (“Non-Defaulting Party”) may terminate this Agreement by providing written notice to the Defaulting Party, without prejudice to any remedies at law or in equity available to the Non-Defaulting Party by reason of the event of Default.

8.3 Upon termination of this Agreement, the CSP shall no longer be registered with the Company or authorized to provide Competitive Energy Services in the Company's service territory.

8.4 The termination of this Agreement for any reason shall not relieve the Company or the CSP of any obligation accrued or accruing prior to such termination, including but not limited to any obligation arising under Article 6.

ARTICLE 9. EVENTS OF DEFAULT AND REMEDIES.

9.1 A Default under this Agreement shall occur if either Party (a) fails to pay the other Party when any payment is due under this Agreement, the Rules, the Company's Retail Tariff, or the PJM OATT if such failure is not remedied within three (3) business days after written notice; (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated; (c) such Party becomes (i) the subject of a bankruptcy, insolvency or similar proceeding; (ii) makes an assignment or any general arrangement for the benefit of its creditors in connection with a insolvency or other similar proceeding; or (iii) applies for, seeks consent to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator or similar official to manage all or a substantial portion of its assets; (e) violates any material federal, state or local code, regulation and/or statute applicable to the supply of Competitive Energy Services; (f) fails to satisfy any other material obligation under this Agreement, the Rules, the Company's Retail Tariff, or the PJM OATT if such failure is not remedied within fifteen (15) calendar days after written notice; provided, further, that if the CSP's Commission license, FERC license, PJM membership, or any other required authorization, is actually revoked, or if the CSP offers generation services that fail to conform to Section 3.3 of Article 3 in this Agreement, the CSP will immediately be in Default of this Agreement.

9.2 In the event of a Default, the Non-Defaulting Party shall be entitled to (a) suspend enrolling any new CSP customers; (b) pursue any and all available legal and equitable remedies available to it, including proceeding against the collateral provided by the CSP to the Company; and/or (c) terminate this Agreement by written notice to the Defaulting Party, without any liability or responsibility whatsoever, except for obligations arising prior to the date of termination.

ARTICLE 10. DISPUTE RESOLUTION.

10.1 The Parties shall address complaints alleging violations of, or disputes arising under, this Agreement in accordance with the Company's dispute resolution procedures as approved by the Commission.

10.2 Any disputes involving transmission service shall be handled in accordance with the PJM OATT.

10.3 Disputes between a CSP's customer and the CSP shall be the sole responsibility of the CSP.

10.4 Disputes between a customer of the Company and the Company shall be subject to the Company's existing customer dispute resolution procedures.

10.5 In the event of a good faith dispute regarding any charges billed to CSP hereunder, CSP will have the right to promptly verify, at its sole expense, the accuracy of such billed amount or the calculation of the payment due by review of the calculation provided for such charges by Company. Upon resolution of a billing dispute, any disputed payments of the CSP made to Company that should not have been billed, will be refunded to the CSP in full, and include simple interest on the payment at the Interest Index per annum payable from the latter of the date that Company received notice of a billing dispute from the CSP or the CSP paid such charge. Interest Index means the average Federal Funds Effective Rate, defined below, for the period of time the funds are on deposit. The Federal Funds Effective Rate is published daily on the Federal Reserve website <http://www.federalreserve.gov/releases/h15/update/>.

ARTICLE 11. FORCE MAJEURE.

- 11.1 Neither Party shall be liable for any delay in performing or for failing to perform its respective obligations under this Agreement due to any event of Force Majeure, including a catastrophic weather condition (but not fluctuations in temperature no matter how extreme), flood, fire, lightning, epidemic, quarantine restriction, war, sabotage, act of a public enemy, earthquake, insurrection, riot, civil disturbance, strike, walkout, lockout or other labor dispute, work stoppage caused by jurisdictional and/or similar disputes, restraint by court order or public authority, or action or non-action by, or inability to obtain authorization or approval from, any governmental authority, or any combination of these causes, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by the exercise of due diligence is unable to overcome. Financial loss or other economic hardship of either Party shall not constitute an event of Force Majeure under this Agreement.
- 11.2 The obligations of either Party, so far as they are affected by the Force Majeure event, shall be suspended during the continuation of such inability and circumstance and shall, so far as possible, be remedied within a reasonable period of time. During such Force Majeure event, both Parties shall take all reasonable steps to comply with this Agreement notwithstanding the occurrence of the event. This section 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 strike, walkout, lockout or other labor dispute.

ARTICLE 12. REGULATORY AUTHORIZATIONS AND JURISDICTION.

12.1 The Company and the CSP are subject to, and shall comply with, all existing or future applicable federal, state and local laws, and all existing or future duly promulgated orders or other duly authorized actions of governmental authorities having jurisdiction over the matters covered by this Agreement.

12.2 This Agreement is subject to change in the future to reflect any relevant changes required by the Commission or other Virginia state agency having jurisdiction, or by virtue of any federal or state law or regulation, and such changes shall be deemed to be binding upon the Parties, except where the right to terminate is exercised in accordance with the terms of this Agreement.

12.3 Any references to FERC-jurisdictional matters in this Agreement are intended solely for informational purposes and are not intended to accord any jurisdictional authority over such matters to the Commission. If anything stated herein is found by the FERC to conflict with or to be inconsistent with any provision of the Federal Power Act ("FPA"), or any rule, regulation, order or determination of the FERC under the FPA, the applicable FERC rule, regulation, order or determination of the FERC shall control.

ARTICLE 13. LIMITATION OF LIABILITY.

13.1 The Company shall have the same duties and limitations on liability for distribution service to the CSP's customers as to those customers receiving electric service from the Company under standard rate schedules.

13.2 The Company shall have no liability to the CSP for any consequential, indirect, incidental, special, ancillary, punitive, exemplary, or other damages, including lost profits, lost revenues, interest, or other monetary losses arising out of any errors or omissions.

13.3 The Company shall switch customers to the CSP consistent with the Rules and the Company's Retail Tariff, and shall have no liability to the CSP arising out of or related to a customer's decision in switching among competitive service providers and/or the Company, unless the Company is grossly negligent in switching or failing to switch a customer.

ARTICLE 14. INDEMNIFICATION.

- 14.1 The CSP shall defend, indemnify and hold harmless the Company from and against any and all claims and/or liabilities for losses, expenses, damage to property, injury to or death of any person, including the Company's employees or any third parties, or any other liability incurred by the Company, including reasonable attorneys' fees, relating to performance under this Agreement, except to the extent that a court of competent jurisdiction determines that the losses, expenses or damage were caused wholly or in part by any negligent or willful act of omission of the Company.
- 14.2 The CSP's obligation to defend, indemnify and hold harmless under this Article shall survive termination of this Agreement, and shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CSP under any statutory scheme, including any Workers Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

ARTICLE 15. NOTICES.

- 15.1 Any written notice required or appropriate hereunder shall be deemed properly made, given to, or served on the Party to which it is directed, when sent by overnight mail or United States mail, postage prepaid, and addressed as follows:

If to the CSP:

If to the Company:

Appalachian Power Company
Choice Operations Support
1 Riverside Plaza, 13th Floor
Columbus, OH 43215

- 15.2 Notice of any change in any of the above addresses shall be given in writing in the manner specified in this Article.
- 15.3 Notices received after the close of a Business Day shall be deemed received on the next Business Day.

ARTICLE 16. NOT A JOINT VENTURE.

16.1 Unless specifically stated in this Agreement to be otherwise, the duties obligations, and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be liable individually and severally for its own obligations under this Agreement.

ARTICLE 17. CONFLICTS BETWEEN THIS AGREEMENT AND THE COMPANY'S RETAIL TARIFF OR THE PJM OATT.

17.1 In the event of a conflict between the provisions of this Agreement and the relevant provisions of the Company's Retail Tariff or the PJM OATT, as approved by the Commission and the FERC, respectively, the provisions of the Company's Retail Tariff and/or the PJM OATT shall prevail.

ARTICLE 18. AMENDMENTS OR MODIFICATIONS.

18.1 Except as provided in Section 12.2 of Article 12 of this Agreement, no amendment or modification shall be made to this Agreement, in whole or in part, except by an instrument in writing executed by authorized representatives of the Parties.

ARTICLE 19. TAXES.

19.1 All present or future federal, state, municipal or other taxes imposed on the CSP by any taxing authority shall be the liability of the CSP. The CSP shall pay all such taxes to the applicable taxing authority to the extent required or permitted by law. If the Company is required to remit any taxes imposed upon customers directly to any applicable taxing authority, other than taxes collected by the Company directly from the CSP's customers, then the CSP shall indemnify the Company against, and will pay the Company for, all such tax amounts upon demand.

ARTICLE 20. WAIVER OF RIGHTS.

20.1 No term or condition of this Agreement shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the Party claimed to have waived or consented to such excuse. The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.

ARTICLE 21. GENERAL PROVISIONS.

- 21.1 To the extent not subject to the exclusive jurisdiction of the FERC, the formation, validity, interpretation, execution, amendment and termination of this Agreement shall be governed by the laws of the Commonwealth of Virginia.
- 21.2 The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereunto, nor should they be used to aid in any manner in the construction of this Agreement.
- 21.3 This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.
- 21.4 Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
- 21.5 Cancellation, expiration or early termination of this Agreement shall not relieve the Parties of obligations that by their nature survive such cancellation, expiration or termination, including, without limitation, payment of any amounts due, warranties, remedies, promises of indemnity and confidentiality.
- 21.6 Should any provision of this Agreement be held invalid or unenforceable, such provision shall be invalid or unenforceable only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any other provision hereof, unless it materially changes the Agreement of the Parties.
- 21.7 Each of the Parties hereto acknowledges that it has read this Agreement, the Rules and the Company's Retail Tariff, understands them, and agrees to be bound by their terms. This Agreement is intended by the Parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. All prior written or oral understandings or offers pertaining to this Agreement are hereby abrogated and withdrawn.

ARTICLE 22. ASSIGNMENT AND DELEGATION.

- 22.1 This Agreement may not be assigned by either the Company or the CSP without the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld, provided, however, either Party may, without the consent of the other Party (and without relieving itself

from liability hereunder), transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such enforceability assurance as the non-transferring Party may reasonably request.

22.2 When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee and the assignor shall be relieved of its rights and obligations. Any assignment in violation of this Article shall be void.

IN WITNESS WHEREOF, The Parties have caused this Agreement to be executed by their respective authorized officials on the dates written below.

Appalachian Power Company
(the "Company")

(the "CSP")

By: _____

By: _____

Printed

Printed

Name: Chris Beam

Name: _____

Title: President & COO - Appalachian

Title: _____

Date: _____

Date: _____