

**Delano Municipal Utilities
Rules
Governing the Interconnection of
Cogeneration and Small Power Production Facilities**

Part A. DEFINITIONS.

Subpart 1. Applicability. For purposes of these rules, the following terms have the meanings given them below.

Subp. 2. Average retail utility energy rate. "Average retail utility energy rate" means, for any class of utility customer, the quotient of the total annual class revenue from sales of electricity minus the annual revenue resulting from fixed charges, divided by the annual class kilowatt-hour sales. The computation shall use data from the most recent 12-month period available.

Subp. 3. Backup power. "Backup power" means electric energy or capacity supplied by the utility to replace energy ordinarily generated by a qualifying facility's own generation equipment during an unscheduled outage of the facility.

Subp. 4. Capacity. "Capacity" means the capability to produce, transmit, or deliver electric energy, and is measured by the number of megawatts alternating current at the point of common coupling between a qualifying facility and the utility's electric system during a 15-minute interval period.

Subp. 5. Capacity costs. "Capacity costs" means the costs associated with providing the capability to deliver energy. The utility capital costs consist of the costs of facilities from the utility and the utility's wholesale provider used to generate, transmit, and distribute electricity and the fixed operating and maintenance costs of these facilities.

Subp. 6. Customer. "Customer" means the person named on the utility electric bill for the premises.

Subp. 7. Energy. "Energy" means electric energy, measured in kilowatt-hours.

Subp. 8. Energy costs. "Energy costs" means the variable costs associated with the production of electric energy. They consist of fuel costs and variable operating and maintenance expenses.

Subp. 9. Firm power. "Firm power" means energy delivered by the qualifying facility to the utility with at least a 65 percent on-peak capacity factor in the month. The capacity factor is based upon the qualifying facility's maximum metered capacity delivered to the utility during the on-peak hours for the month.

Subp. 10. Governing body. "Governing body" means [replace this text and brackets with the name of the city council or commission or board that governs the utility].

Subp. 11. Interconnection costs. "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the utility that are directly related to installing and maintaining the physical facilities necessary to permit interconnected operations with a

qualifying facility. Costs are considered interconnection costs only to the extent that they exceed the costs the utility would incur in selling electricity to the qualifying facility as a nongenerating customer.

Subp. 12. Interruptible power. "Interruptible power" means electric energy or capacity supplied by the utility to a qualifying facility subject to interruption under the provisions of the utility's tariff applicable to the retail class of customers to which the qualifying facility would belong irrespective of its ability to generate electricity.

Subp. 13. Maintenance power. "Maintenance power" means electric energy or capacity supplied by a utility during scheduled outages of the qualifying facility.

Subp. 14. On-peak hours. "On-peak hours" means either those hours formally designated by the utility as on-peak for ratemaking purposes or those hours for which its typical loads are at least 85 percent of its average maximum monthly loads.

Subp. 15. Point of common coupling. "Point of common coupling" means the point where the qualifying facility's generation system, including the point of generator output, is connected to the utility's electric power grid.

Subp. 16. Purchase. "Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by the utility.

Subp. 17. Qualifying facility. "Qualifying facility" means a cogeneration or small power production facility which satisfies the conditions established in Code of Federal Regulations, title 18, part 292. The initial operation date or initial installation date of a cogeneration or small power production facility must not prevent the facility from being considered a qualifying facility for the purposes of this chapter if it otherwise satisfies all stated conditions. The qualifying facility must be owned by a Customer and located in the utility service area.

Subp. 18. Sale. "Sale" means the sale of electric energy or capacity or both by the utility to a qualifying facility.

Subp. 19a. Standby charge. "Standby charge" means the charge imposed by the utility upon a qualifying facility for the recovery of costs for the provision of standby services necessary to make electricity service available to the qualifying facility.

Subp. 19b. Standby service. "Standby service" means the service to potentially provide electric energy or capacity supplied by the utility to a qualifying facility greater than 40 kW.

Subp. 20. Supplementary power. "Supplementary power" means electric energy or capacity supplied by the utility which is regularly used by a qualifying facility in addition to that which the facility generates itself.

Subp. 21. System emergency. "System emergency" means a condition on the utility's system which is imminently likely to result in significant disruption of service to customers or to endanger life or property.

Subp. 22. Utility. "Utility" means [replace this text with the name of the municipal utility].

Part B. SCOPE AND PURPOSE.

The purpose of these rules are to implement certain provisions of Minnesota Statutes, section 216B.164; the Public Utility Regulatory Policies Act of 1978, United States Code, title 16, section 824a-3; and the Federal Energy Regulatory Commission regulations, Code of Federal Regulations, title 18, part 292. These rules shall be applied in accordance with their intent to give the maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public.

Part C. FILING REQUIREMENTS

Annually the utility shall file for review and approval, a cogeneration and small power production tariff with the governing body. The tariff must contain schedules 1 – 5.

SCHEDULE 1.

Schedule 1 shall contain the calculation of the average retail utility energy rates to be updated annually.

SCHEDULE 2.

Schedule 2 shall contain all standard contracts to be used with qualifying facilities, containing applicable terms and conditions.

SCHEDULE 3.

Schedule 3 shall contain the utility's adopted interconnection process, safety standards, technical requirements for distributed energy resource systems, required operating procedures for interconnected operations, and the functions to be performed by any control and protective apparatus.

SCHEDULE 4.

Schedule 4 shall contain procedures for notifying affected qualifying facilities of any periods of time when the utility will not purchase electric energy or capacity because of extraordinary operational circumstances which would make the costs of purchases during those periods greater than the costs of internal generation.

SCHEDULE 5.

Schedule 5 shall contain the estimated average incremental energy costs by seasonal, peak and off-peak periods for the utility's power supplier from which energy purchases are first avoided. Schedule 5 shall also contain the net annual avoided capacity costs, if

any, stated per kilowatt-hour and averaged over the on-peak hours and over all hours for the utility's power supplier from which capacity purchases are first avoided. Both the average incremental energy costs and net annual avoided capacity costs shall be increased by a factor equal to 50 percent of the utility and the utility's power supplier's overall line losses due to distribution, transmission and transformation of electric energy.

Part D. AVAILABILITY OF FILINGS.

All filings shall be maintained at the utility's general office and any other offices of the utility where rate tariffs are kept. The filings shall be made available for public inspection during normal business hours. The utility shall supply the current year's distributed generation rates, interconnection procedures and application form on the utility website, if practicable, or at the utility office.

Part E. REPORTING REQUIREMENTS

Annually the utility shall report to the governing body for its review and approval an annual report including information in subparts 1-3. The utility shall still comply with other federal and state reporting of distributed generation to federal and state agencies expressly required by statute.

Subpart 1. Summary of Average Retail Utility Energy Rate. A summary of the qualifying facilities that are currently served under average retail utility energy rate.

Subp. 2. Other Qualifying Facilities. A summary of the qualifying facilities that are not currently served under average retail utility energy rate.

Subp. 3. Wheeling. A summary of the wheeling undertaken with respect to qualifying facilities.

Part F. CONDITIONS OF SERVICE

Subpart 1. Requirement to Purchase. The utility shall purchase energy and capacity from any qualifying facility which offers to sell energy and capacity to the utility and agrees to the conditions in these rules.

Subp. 2. Written Contract. A written contract shall be executed between the qualifying facility and the utility.

Part G. ELECTRICAL CODE COMPLIANCE.

Subpart 1. Compliance; standards. The interconnection between the qualifying facility and the utility must comply with the requirements in the most recently published edition of the National Electrical Safety Code issued by the Institute of Electrical and Electronics Engineers. The interconnection is subject to subparts 2 and 3.

Subp. 2. Interconnection. The qualifying facility is responsible for complying with all applicable local, state, and federal codes, including building codes, the National Electrical Code (NEC), the National Electrical Safety Code (NESC), and noise and emissions standards. The utility shall require proof that the qualifying facility is in compliance with the NEC before the interconnection is made. The qualifying facility must obtain installation approval from an electrical inspector recognized by the Minnesota State Board of Electricity.

Subp. 3. Generation system. The qualifying facility's generation system and installation must comply with the American National Standards Institute/Institute of Electrical and Electronics Engineers (ANSI/IEEE) standards applicable to the installation.

Part H. RESPONSIBILITY FOR APPARATUS.

The qualifying facility, without cost to the utility, must furnish, install, operate, and maintain in good order and repair any apparatus the qualifying facility needs in order to operate in accordance with schedule 3.

Part I. TYPES OF POWER TO BE OFFERED; STANDBY SERVICE.

Subpart 1. Service to be offered. The utility shall offer maintenance, interruptible, supplementary, and backup power to the qualifying facility upon request.

Subp. 2. Standby service. The utility shall offer a qualifying facility standby power or service at the utility's applicable standby rate schedule.

Part J. DISCONTINUING SALES DURING EMERGENCY.

The utility may discontinue sales to the qualifying facility during a system emergency, if the discontinuance and recommencement of service is not discriminatory.

Part K. RATES FOR UTILITY SALES TO A QUALIFYING FACILITY.

Rates for sales to a qualifying facility are governed by the applicable tariff for the class of electric utility customers to which the qualifying facility belongs or would belong were it not a qualifying facility. Such rates are not guaranteed and may change from time to time at the discretion of the utility.

Part L. STANDARD RATES FOR PURCHASES FROM QUALIFYING FACILITIES.

Subpart 1. Qualifying facilities with 100 kilowatt capacity or less. For qualifying facilities with capacity of 100 kilowatts or less, standard purchase rates apply. The utility shall make available four types of standard rates, described in parts M, N, O, and P. The qualifying facility with a capacity of 100 kilowatts or less must choose interconnection under one of these rates, and must specify its choice in the written contract required in part V. Any net credit to the qualifying facility must, at its option, be credited to its

account with the utility or returned by check or comparable electronic payment service within 15 days of the billing date. The option chosen must be specified in the written contract required in part V. Qualifying facilities remain responsible for any monthly service charges and demand charges specified in the tariff under which they consume electricity from the utility.

Subp. 2. Qualifying facilities over 100 kilowatt capacity. A qualifying facility with more than 100 kilowatt capacity has the option to negotiate a contract with the utility or, if it commits to provide firm power, be compensated under standard rates.

Part M. AVERAGE RETAIL UTILITY ENERGY RATE.

Subpart 1. Applicability. The average retail utility energy rate is available only to customer-owned qualifying facilities with capacity of less than 40 kilowatts which choose not to offer electric power for sale on either a time-of-day basis, a simultaneous purchase and sale basis or roll-over credit basis.

Subp. 2. Method of billing. The utility shall bill the qualifying facility for the excess of energy supplied by the utility above energy supplied by the qualifying facility during each billing period according to the utility's applicable retail rate schedule.

Subp. 3. Additional calculations for billing. When the energy generated by the qualifying facility exceeds that supplied by the utility to the customer at the same site during the same billing period, the utility shall compensate the qualifying facility for the excess energy at the average retail utility energy rate.

Part N. SIMULTANEOUS PURCHASE AND SALE BILLING RATE.

Subpart 1. Applicability. The simultaneous purchase and sale rate is available only to qualifying facilities with capacity of less than 40 kilowatts which choose not to offer electric power for sale on average retail utility energy rate basis, time-of-day basis or roll-over credit basis.

Subp. 2. Method of billing. The qualifying facility must be billed for all energy and capacity it consumes during a billing period according to the utility's applicable retail rate schedule.

Subp. 3. Compensation to qualifying facility; energy purchase. The utility shall purchase all energy which is made available to it by the qualifying facility. At the option of the qualifying facility, its entire generation must be deemed to be made available to the utility. Compensation to the qualifying facility must be the energy rate shown on schedule 5.

Subp. 4. Compensation to qualifying facility; capacity purchase. If the qualifying facility provides firm power to the utility, the capacity component must be the utility's net annual avoided capacity cost per kilowatt-hour averaged over all hours shown on schedule 5, divided by the number of hours in the billing period. If the qualifying facility does not provide firm power to the utility, no capacity component may be included in the compensation paid to the qualifying facility.

Part O. TIME-OF-DAY PURCHASE RATES.

Subpart 1. Applicability. Time-of-day rates are required for qualifying facilities with capacity of 40 kilowatts or more and less than or equal to 100 kilowatts, and they are optional for qualifying facilities with capacity less than 40 kilowatts. Time-of-day rates are also optional for qualifying facilities with capacity greater than 100 kilowatts if these qualifying facilities provide firm power.

Subp. 2. Method of billing. The qualifying facility must be billed for all energy and capacity it consumes during each billing period according to the utility's applicable retail rate schedule.

Subp. 3. Compensation to qualifying facility; energy purchases. The utility shall purchase all energy which is made available to it by the qualifying facility. Compensation to the qualifying facility must be the energy rate shown on schedule 5.

Subp. 4. Compensation to qualifying facility; capacity purchases. If the qualifying facility provides firm power to the utility, the capacity component must be the capacity cost per kilowatt shown on schedule 5 divided by the number of on-peak hours in the billing period. The capacity component applies only to deliveries during on-peak hours. If the qualifying facility does not provide firm power to the utility, no capacity component may be included in the compensation paid to the qualifying facility.

Part P. ROLL-OVER CREDIT PURCHASE RATES.

Subpart 1. Applicability. The roll-over credit rate is available only to qualifying facilities with capacity of less than 40 kilowatts which choose not to offer electric power for sale on average retail utility energy rate basis, time-of-day basis or simultaneous purchase and sale basis.

Subp. 2. Method of billing. The utility shall bill the qualifying facility for the excess of energy supplied by the utility above energy supplied by the qualifying facility during each billing period according to the utility's applicable retail rate schedule.

Subp. 3. Additional calculations for billing. When the energy generated by the qualifying facility exceeds that supplied by the utility during a billing period, the utility shall apply the excess kilowatt hours as a credit to the next billing period kilowatt hour usage. Excess kilowatt hours that are not offset in the next billing period shall continue to

be rolled over to the next consecutive billing period. Any excess kilowatt hours rolled over that are remaining at the end of each calendar year shall cancel with no additional compensation.

Part Q. CONTRACTS NEGOTIATED BY CUSTOMER.

A qualifying facility with capacity greater than 100 kilowatts must negotiate a contract with the utility setting the applicable rates for payments to the customer of avoided capacity and energy costs.

Subpart 1. Amount of Capacity Payments. The qualifying facility which negotiates a contract under part Q must be entitled to the full avoided capacity costs of the utility. The amount of capacity payments will be determined by the utility and the utility's wholesale power provider.

Subp. 2. Full Avoided Energy Costs. The qualifying facility which negotiates a contract under part Q must be entitled to the full avoided energy costs of the utility. The costs must be adjusted as appropriate to reflect line losses.

Part R. WHEELING

Qualifying facilities with capacity of 30 kilowatts or greater, are interconnected to the utility's distribution system and choose to sell the output of the qualifying facility to any other utility, must pay any appropriate wheeling charges to the utility. Within 15 days of receiving payment from the utility ultimately receiving the qualifying facility's output, the utility shall pay the qualifying facility the payment less the charges it has incurred and its own reasonable wheeling costs.

Part S. NOTIFICATION TO CUSTOMERS

Subpart 1. Contents of Written Notice. Following each annual review and approval by the utility of the cogeneration rate tariffs the utility shall furnish in the monthly newsletter or similar mailing, written notice to each of its customers that the utility is obligated to interconnect with and purchase electricity from cogenerators and small power producers.

Subp. 2. Availability of Information. The utility shall make available to all interested persons upon request, the interconnection process and requirements adopted by the utility, pertinent rate schedules and sample contractual agreements.

Part T. DISPUTE RESOLUTION

In case of a dispute between a utility and a qualifying facility or an impasse in the negotiations between them, either party may request the governing body to determine the issue.

Part U. INTERCONNECTION CONTRACTS

Subpart 1. Interconnection Standards. The utility shall provide a customer applying for interconnection with a copy of, or electronic link to, the utility’s adopted interconnection process and requirements.

Subp. 2. Existing Contracts. Any existing interconnection contract executed between the utility and a qualifying facility with capacity of less than 40 kilowatts remains in force until terminated by mutual agreement of the parties or as otherwise specified in the contract. The governing body has assumed all dispute responsibilities as listed in existing interconnection contracts. Disputes are resolved in accordance with Part T.

Subp. 3. Renewable Energy Credits; Ownership. Generators own all renewable energy credits unless other ownership is expressly provided for by a contract between a generator and the utility

Part V. UNIFORM CONTRACT.

The form for uniform contract that shall be used between the utility and a qualifying facility having less than 40 kilowatts of capacity is as shown in subpart 1.

Subpart 1. Contract for Cogeneration and Small Power Production Facilities. (See attached contract form.)

ADOPTED ON:

SIGNED:

Chair of the Delano Municipal Utilities Commission

CONTRACT FOR COGENERATION AND SMALL POWER PRODUCTION FACILITIES

THIS CONTRACT is entered into _____, _____, by Delano Municipal Utilities, a municipal utility under Minnesota law (hereafter called "Utility") and _____ (hereafter called "QF").

RECITALS

- The QF has installed electric generating facilities, consisting of _____ (Description of facilities), rated at _____ kilowatts of electricity, on property located at _____.
- The QF is a customer of the Utility located within the assigned electric service territory of the Utility.
- The QF is prepared to generate electricity in parallel with the Utility.
- The QF's electric generating facilities meet the requirements of the rules adopted by the Utility on Cogeneration and Small Power Production and any technical standards for interconnection the Utility has established that are authorized by those rules.
- The Utility is obligated under federal and Minnesota law to interconnect with the QF and to purchase electricity offered for sale by the QF.
- A contract between the QF and the Utility is required.

AGREEMENTS

The QF and the Utility agree:

1. The Utility will sell electricity to the QF under the rate schedule in force for the class of customer to which the QF belongs.
2. The Utility will buy electricity from the QF under the current rate schedule filed with the city council or city-appointed body governing the utility. The QF elects the rate schedule category hereinafter indicated:
 - _____ a. Average retail utility rate.
 - QF capacity must be less than 40 kW.

___ b. Simultaneous purchase and sale billing rate.

- QF capacity must be less than 40 kW.

___ c. Roll-over credits.

- QF capacity must be less than 40 kW.

___ d. Time-of-day purchase rate.

- QF capacity must be 40 kW or more and less than or equal to 100 kW.

A copy of the presently filed rate schedule is attached to this contract.

3. The rates for sales and purchases of electricity may change over the time this contract is in force, due to actions of the Utility or of the State of Minnesota, and the QF and the Utility agree that sales and purchases will be made under the rates in effect each month during the time this contract is in force.

4. The Utility will compute the charges and payments for purchases and sales for each billing period. Any net credit to the QF, other than kilowatt-hour credits under clause 2(c), will be made under one of the following options as chosen by the QF:

___ a. Credit to the QF's account with the Utility.

___ b. Paid by check or electronic payment service to the QF within 15 days of the billing date.

5. Renewable energy credits associated with generation from the facility are owned by: _____

6. The QF must operate its electric generating facilities within any rules, regulations, and policies adopted by the Utility not prohibited by the Minnesota Public Utilities Commission's rules on Cogeneration and Small Power Production. The Utility's rules, regulations, and policies must be consistent with the Minnesota Public Utilities Commission's rules on Cogeneration and Small Power Production, as required under Minnesota Statutes §216B.164, subdivision 9.

7. The QF will not enter into an arrangement whereby electricity from the generating facilities will be sold to an end user in violation of the Utility's or any other electric utility's exclusive right to provide electric service in its service area under Minnesota Statutes, Sections 216B.37-44.

8. The QF will operate its electric generating facilities so that they conform to the national, state, and local electric and safety codes, and will be responsible for the costs of conformance.

9. The QF is responsible for the actual, reasonable costs of interconnection which are estimated to be \$_____. The QF will pay the Utility in this way:

10. The QF will give the Utility reasonable access to its property and electric generating facilities if the configuration of those facilities does not permit disconnection or testing from the Utility's side of the interconnection. If the Utility enters the QF's property, the Utility will remain responsible for its personnel.

11. The Utility may stop providing electricity to the QF during a system emergency. The Utility will not discriminate against the QF when it stops providing electricity or when it resumes providing electricity.

12. The Utility may stop purchasing electricity from the QF when necessary for the Utility to construct, install, maintain, repair, replace, remove, investigate, or inspect any equipment or facilities within its electric system.

The Utility will notify the QF before it stops purchasing electricity in this way:

13. The QF will keep in force liability insurance against personal or property damage due to the installation, interconnection, and operation of its electric generating facilities. The amount of insurance coverage will be \$_____ (The amount must be consistent with the Utility's distributed generation tariff under Minnesota Statutes §216B.1611, subdivision 3, clause 2.

14. The Utility and the QF agree to attempt to resolve any dispute arising hereunder promptly and in a good faith manner.

15. The city council or city-appointed body governing the Utility has authority to consider and determine disputes, if any, that arise under this contract pursuant to Minnesota Statutes §216B.164, subd. 9.

16. This contract becomes effective as soon as it is signed by the QF and the Utility. This contract will remain in force until either the QF or the Utility gives written notice to the other that the contract is canceled. This contract will be canceled 30 days after notice is given.

17. Neither the QF or the Utility will be considered in default as to any obligation if the QF or the Utility is prevented from fulfilling the obligation due to an event of Force Majeure. However, the QF or Utility whose performance under this contract is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations.

18. This contract can only be amended or modified by mutual agreement in writing signed by the QF and the Utility.

19. Each Party will be responsible for its own acts or omissions and the results thereof to the extent authorized by law and shall not be responsible for the acts or omissions of any others and the results thereof.

20. The QF's and the Utility's liability to each other for failure to perform its obligations under this contract shall be limited to the amount of direct damage actually occurred. In no event, shall the QF or the Utility be liable to each other for any punitive, incidental, indirect, special, or consequential damages of any kind whatsoever, including for loss of business opportunity or profits, regardless of whether such damages were foreseen.

21. The Utility does not give any warranty, expressed or implied, to the adequacy, safety, or other characteristics of the QF's interconnected system.

22. This contract contains all the agreements made between the QF and the Utility. The QF and the Utility are not responsible for any agreements other than those stated in this contract.

THE QF AND THE UTILITY HAVE READ THIS CONTRACT AND AGREE TO BE BOUND BY ITS TERMS. AS EVIDENCE OF THEIR AGREEMENT, THEY HAVE EACH SIGNED THIS CONTRACT BELOW ON THE DATE WRITTEN AT THE BEGINNING OF THIS CONTRACT.

QF

By: _____

DELANO MUNICIPAL UTILITIES

By: _____

(Title)