

FIRST AMENDMENT TO POWER PURCHASE AGREEMENT BETWEEN
THE CITY OF ROCHELLE AND ROCHELLE ENERGY LLC

THIS FIRST AMENDMENT TO POWER PURCHASE AGREEMENT BETWEEN THE CITY OF ROCHELLE AND ROCHELLE ENERGY LLC (this “First Amendment”), (a) is dated as of March __, 2018, by and between the City of Rochelle, an Illinois municipal corporation (“Buyer”), and Rochelle Energy LLC, a Delaware limited liability company (“Seller”), and (b) amends that certain Power Purchase Agreement between Buyer and Seller (as successor in interest to Rochelle Energy Center, LLC), dated as of August 10, 2010 (hereinafter referred to, as amended, supplemented and modified from time to time in accordance with the terms thereof, together with all Exhibits and Schedules attached or to be attached thereto, as the “Agreement”). Capitalized terms used in this First Amendment without definition shall have the meanings ascribed thereto in the Power Purchase Agreement. Buyer and Seller are sometimes hereinafter collectively referred to as the “Parties,” and individually as a “Party.”

W I T N E S S E T H

WHEREAS, the Parties wish to (a) extend the Initial Term of the Agreement, and (b) commencing January 1, 2024, cap the maximum Product required to be purchased by Buyer thereunder;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

Section 1. Amendment to Section 3.01 (Seller’s and Buyer’s Obligations). The first sentence of Section 3.01 of the Agreement is hereby amended to read in its entirety as follows:

“Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point during the Term, and Buyer shall pay Seller the Product Charge (as defined below); provided, however, that commencing January 1, 2024, Seller shall not be obligated to sell, and Buyer shall not be obligated to purchase, Product in a capacity greater than 3,200 kW.”

Section 2. New Section 3.09. A new Section 3.09 is added to the Agreement to read in its entirety as follows:

“Section 3.09. Peak Day Capacity. Seller agrees that during the Term it shall use its reasonable commercial efforts to increase the Plant’s output by ten (10) to twenty (20) percent on up to five (5) critical peak days each calendar year upon provision of from twelve (12) to twenty-four (24) hours’ prior written request therefor from Buyer.”

Section 3. Amendment to Section 4.01 (Payment). The reference in Section 4.01(c) to “the twelfth (12th) anniversary of the Commencement Date” is hereby amended to be a reference to “the seventeenth (17th) anniversary of the Commencement Date”.

Section 4. Amendment to Section 5.01 (Term). The reference in Section 5.01(a) to “the twelfth (12th) anniversary of the Commencement Date” is hereby amended to be a reference to “the seventeenth (17th) anniversary of the Commencement Date”.

Section 5. Entire Agreement. The Agreement and its exhibits and schedules, as modified by this First Amendment, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and may only be further modified by a written amendment executed by both Parties.

Section 6. Execution in Counterparts. This First Amendment may be executed separately by Buyer and Seller in counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which, taken together, shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this First Amendment by telecopy, portable document format (“PDF”) or other electronic means shall be binding on the Parties and as effective as delivery of a manually executed counterpart of this First Amendment.

Section 7. Miscellaneous. Except as expressly amended hereby or otherwise provided herein, all of the terms and conditions of the Agreement remain in full force and effect, and none of such terms and conditions are, or shall be construed as, otherwise amended or modified. This First Amendment does not imply a future amendment, waiver, or departure from the terms of the Agreement or constitute a basis for a subsequent amendment, waiver or consent thereunder. This First Amendment shall be construed in connection with, and as part of, the Agreement. The terms conditions, covenants, agreements, rights, remedies, powers and privileges set forth in the Agreement as modified hereby are hereby ratified, adopted and confirmed in all respects by the Parties hereto and shall continue in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by their respective officers thereunto duly authorized, as of the date first above written.

CITY OF ROCHELLE, an Illinois
municipal corporation

By: _____
Name:
Title:

ATTEST:

By: _____
Name:
Title:

ROCHELLE ENERGY LLC

By: _____
Name: Wes Lawrence
Title: President