

Proposal
to
Logansport Municipal
Utilities

Prepared by
Indiana Municipal Power Agency

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1 IMPA – Who We Are

1.1 IMPA – Joint Action Agency

The Indiana Municipal Power Agency (IMPA) is the wholesale electric power provider serving the needs of 59 cities and towns in Indiana, as well as one community in Ohio. IMPA was created in 1980 per the authority granted by the Indiana Legislature in Indiana Code 8-1-2.2. The Agency began operations as a “joint action agency” in 1983 with 26 members. As individual utilities, IMPA members had limited access to power supply options. By purchasing power from IMPA instead of purchasing or generating it themselves, IMPA members found they could save money and keep electric costs as low as possible.

While the supply of low-cost, reliable, environmentally-responsible power to member communities is IMPA’s primary goal, the Agency also provides support to member utilities in other areas. At the request of our members and their partners, IMPA offers these services as part of its wholesale rate. The services include:

- Communications
- Marketing
- Economic development
- Government relations
- Energy efficiency
- Employee training (Electric industry, customer service, lineman, NESC, etc.)
- APPA and APPA – DEED Memberships

IMPA’s long-term approach provides its members with a low cost power supply with stable rates.

1.2 IMPA’s Members

IMPA’s members are cities and towns that own and operate their local municipal electric distribution utility. In 1980, 11 Indiana cities and towns formed IMPA so that they could share power resources, allowing them to provide electricity more efficiently and economically to their retail customers. Since operations began 1983, IMPA’s membership has grown to 59 Indiana cities and towns and one community in Ohio.

IMPA is governed by its members. Member utilities purchase their power requirements from IMPA and deliver that power to the residents and companies in their communities. Altogether, IMPA members deliver electric service to approximately 340,000 individuals throughout Indiana and Ohio, with an annual peak load of approximately 1,250 MW.

IMPA’s members work together through IMPA to strengthen all municipal electric utilities throughout Indiana.

1.3 ISC - Engineering & Operations Services

ISC, a not-for-profit corporation, was formed by IMPA to provide cost-effective services beyond power supply and transmission to IMPA's members and other municipal electric utilities.

Many of IMPA's members needed engineering, project management, rate design, and retail customer services they could not cost-effectively provide with in-house staff. These members recognized they could meet these needs in a cost-effective manner by working together. Today, ISC provides these cost-effective services to many municipally owned utilities.

In 2013, IMPA launched its new ISC Operations division to assist municipally owned utilities in solving issues, both large and small, and ensuring quality electric service to customers in member communities. ISC Operations provides assistance in the areas of construction of distribution facilities, system management, distribution utility services, outage restoration and substation maintenance at not-for-profit rates.

2 Logansport Municipal Utilities

The City of Logansport, located in Northern Indiana on the Wabash River, owns and operates Logansport Municipal Utilities (LMU). LMU is interconnected with the Joint Transmission System (JTS), of which IMPA is a joint owner with Duke Energy Indiana (DEI), and thus LMU is integrally connected to the Mid-Continent Independent System Operator (MISO). With the recent closing of the local coal fired power plant, LMU currently purchases all of its power requirements from DEI. The term of the existing agreement with DEI ends December 31, 2018.

DEI currently supplies electric energy through the MISO transmission system and delivers it to LMU at 230,000 or 69,000 volts depending on transformer ownership and metering point. IMPA is unsure of and LMU has offered no information on the exact local transmission arrangement in place with DEI. IMPA is also unsure how many delivery points LMU has from DEI/MISO, however, determination of the specific MISO delivery points to LMU has no effect on nor is requisite for this offer. As a MISO participant, the delivery points would simply be transferred into IMPA's MISO settlement account. The specific delivery voltage would, however, have an effect on the ultimate billing rate to LMU, as discussed in Section 7.

LMU is seeking a full requirements power supply contract of unspecified term to replace the DEI contract. The remainder of this document highlights IMPA's proposal to LMU.

4 IMPA's Governance

All IMPA members are represented on IMPA's Board of Commissioners. Each member has a voice in setting policy pertaining to the direction of the Agency. Accountability is another major facet of IMPA's corporate governance. At monthly meetings, IMPA's management reports to the Board of Commissioners on daily operations, financial matters and key business decisions.

4.1 Voting Procedures

IMPA utilizes a two-part voting formula. Each member of IMPA gets one vote (similar to U.S. Senate) and each member of IMPA gets one additional vote for each megawatt of electric load (similar to U.S. House of Representatives). For a measure to pass; it must pass both parts of the voting formula and a quorum must be present.

4.2 Officers and Executive Committee

IMPA's officers consist of a Chairman, Vice Chairman, Secretary, and Treasurer elected by the IMPA Board of Commissioners. The officers serve one year terms and traditionally serve no more than three terms. The Chairman, Vice Chairman, and Treasurer are joined by six other elected commissioners to form an Executive Committee. The Executive Committee, which meets approximately a week prior to the monthly Board meeting, acts as an advisor of IMPA's organizational activities and works with IMPA senior management to set the agenda for the upcoming Board meeting.

IMPA's current board chairwoman is Sue Saunders, Town of Lewisville, Indiana.

5 IMPA Resource Strategy and Operations

IMPA has been providing full requirements wholesale power service to its members for over 33 years. IMPA serves load in both MISO and PJM Interconnection LLC (PJM). IMPA operates a diverse portfolio of generation and transmission resources to serve member needs. IMPA has resources in seven different balancing areas across the Midwest. IMPA's resources are briefly described below:

- Ownership interest in 524 MW of coal fired generation
 - Gibson 5 – 156 MW
 - Trimble County 1&2 – 162 MW
 - Prairie State 1&2 – 206 MW
- Ownership of 419 MW of natural gas fired and dual fueled combustion turbine peaking facilities
 - Anderson 1-3 – 167 MW
 - Georgetown 1&2 – 170 MW
 - Richmond 1&2 – 82 MW
- Ownership of nine community solar parks (13 MW) with four additional sites (11.5 MW) under construction and scheduled for completion in 2016 and plans to add up to 10 MW per year for the next several years
- Operations responsibility for 91 MW of local coal generation
 - Whitewater Valley Station 1&2 – 91 MW
- Long-term cost based energy contracts that are sourced from coal, gas, wind and nuclear facilities
- Short term market purchases
- Ownership of approximately \$100 million worth of transmission in Indiana which reduces IMPA's overall transmission costs

This physical and geographical diversity of resources reduces IMPA's exposure to forced outages, locational marginal price (LMP) spikes, zonal capacity costs and regional fuel supply costs.

IMPA's ownership of generating resources significantly reduces IMPA's purchased power exposure and the volatility surrounding the power markets. Having just completed a major construction cycle, IMPA expects that its resource strategy will provide relatively stable rates to members for the foreseeable future. Given the current mix of physical resources and contractual obligations, no significant new resources are required for several years which should allow for a period of rate stability.

6 IMPA Financials

IMPA is recognized as one of the premiere Joint Action Agencies in the nation. The following highlights IMPA's financial picture:

- Annual Revenues ≈ \$450 million
- Total Assets ≈ \$1.7 billion
- Highly rated by major financial rating agencies (A1/A+)
- Outstanding Debt ≈ \$1.3 billion
- Liquidity is strong
 - \$44.4 million General Operating Fund
 - \$21.1 million Rate Stabilization Fund
- 5 year \$50 million credit facility, subordinated to Revenue Bonds (\$46 million available)
- Historical Debt Service Coverage (five year average) ≈ 1.27X
- Annual audit by PricewaterhouseCoopers (PwC)
- IMPA Board is empowered by Indiana state statute to set rates and is not subject to Indiana Utility Regulatory Commission or FERC rate regulation. (IURC approval of a Certificate of Need **is** required to build most new generating resources as well as IURC approval of any bonds required to build those projects)
- IMPA Board approved rates are based on a 1.2 times Debt Service Coverage target
- IMPA rates are reconciled to actual costs every six months
- IMPA's members' average retail rates are roughly 10% lower than Indiana IOU retail rates
- All IMPA members have monthly or quarterly rate adjustment clauses for changes in IMPA power costs

7 Rates and Billing

IMPA rates are set in accordance with its Bond Resolution. The Bond Resolution requires the establishment of rates that, together with other revenues, are reasonably expected to pay IMPA's operating costs (excluding depreciation and amortization), and at least 110% of the Agency's aggregate debt service. IMPA's debt service requirements are designed to be relatively equal over the life of the bonds to help provide stable rates to the communities IMPA serves. Rates are not subject to state or federal regulation. The debt service included in rates provides for cost recovery of the utility plant assets over a period not exceeding the utility plant useful lives.

IMPA member communities are billed monthly using budgeted rates. Differences between the actual costs and budgeted amounts rate are collected from or returned to the communities via a tracker in subsequent periods.

7.1 Rate Projection – CONFIDENTIAL

LMU did not provide an indication of future load growth or provide any historical data of hourly usage. Using the limited information provided as well as data for similarly sized IMPA members, IMPA's load forecast levels and modeling assumptions for LMU, IMPA has produced a projection of IMPA rates including LMU.

This rate includes all transmission service required for IMPA to provide energy from its portfolio of resources, through the MISO system to Logansport's delivery points. Logansport's actual charges would depend on the delivery voltage level and actual monthly load factors. For purposes of this proposal, IMPA's system average billing load factor is used in the table below. As stated in section 2, IMPA is not certain if LMU would be billed at 69kV or at the transmission level for 138kV and above, as some IMPA members are. The table below shows the estimated average annual cost at both voltage levels for the first several years of the proposal.

Average Rate at Different Delivery Levels - ¢/kWh				
	2019	2020	2021	2022
Delivery @ 138 kV or higher	Redacted			
Delivery @ 69 kV				

These figures are based on limited LMU data, current load forecasts, current market commodity prices, market power price projections and existing state and federal laws and assumed inflation. Actual IMPA annual rates will be based on annual budgeted costs and approved by the IMPA board prior to the start of the budget year. Due to the long term nature of IMPA membership, the system cost based rates will continue through the term of the entire power sales contract.

8 Benefits of Joining IMPA

IMPA is an organization available to Indiana's Municipal Electric Systems. The Agency was formed in 1980 with 11 original members. IMPA began operations in 1983 with 26 members and has grown to 59 members in Indiana plus one wholesale customer in Ohio.

Benefits of becoming an IMPA member include:

- Full Requirements Service – All of Logansport's load is served, regardless if it increases or decreases
- Logansport has a seat and voice on IMPA's Board of Commissioners allowing it to actively assist in guiding its power supplier's future
- Low, Stable Rates
- Access to ALL member services provided by IMPA including
 - Government relations assistance
 - Economic development assistance
 - Customized newsletters to Logansport's retail customers from IMPA and Logansport
 - Customized marketing communications materials
 - Direct member service liaison between Logansport and IMPA
 - Employee Training (Electric industry, customer service, lineman, NESC, etc.)
- Membership on various IMPA working groups and committees including operating, customer service, government relations and re-engineering (bulk purchase savings when purchasing transformers, poles, etc.) committees
- APPA Membership
- APPA – DEED Membership
- Access to ISC engineering, operations, and construction services
- Future Solar Park located in Logansport

9 RFP Submission Requirements

Section 12 of the RFP contained several items that the offer submission must show. These items are repeated here along with a page number reference, if applicable.

- The Submission shows proof of the ability to perform such function in the State of Indiana
 - ***IMPA was created pursuant to Indiana Code 8-1-2.2 allowing for the creation of joint action agencies to supply wholesale power. IMPA has been providing full requirements service to its membership for over 33 years. (pp 1 & 5)***
- The Submission outlines a “full requirements, load-following” supply of continuous energy at the load and demand required to meet the native load and demand of the LMU service territory.
 - ***IMPA only provides full requirements load following services to its members and all IMPA power supply contracts highlight that the service will be full requirements, load-following service.***
- The submitting party provides proof of the capacity to provide the full requirements, load following supply of wholesale energy to LMU.
 - ***IMPA owns or controls over 1050 MW of physical generation assets in the MISO and PJM footprint. Additionally, long term supply agreements add an addition 240 MW. The balance of IMPA’s needs is handled through shorter term market purchases. IMPA is in full compliance with the MISO and PJM capacity constructs for capacity resource adequacy. (pg. 5)***
- The Submission provides the “all-in” price for wholesale power delivered to identified point(s) on LMU’s system (without any required substation upgrades).
 - ***IMPA’s current estimated 2019 rate to LMU is shown on page 10. IMPA’s rate includes all transmission service costs, and would not include any direct billed additional fees for transmission upgrades, if they are required. (pp. 5 & 10)***
- The Submission is not predicated upon a requirement that LMU be a MISO participant for the wholesale power supply, nor for its existing LMU Distribution and Transmission System, (i.e. all such charges, fees, licenses, etc. as required by MISO or any other agency are fully borne by provider and LMU is in no way responsible for MISO compliance/implementation now or in the future.)
 - ***None of IMPA’s members are MISO or PJM participants. IMPA is the load serving entity and bears all of the cost associated with transmission service to its member cities. The same would hold true for LMU.***
- The Submission outlines the submitting party’s experience and specific capabilities in meeting LMU’s wholesale power requirements including an identification of other purchase power agreements, with other municipalities in the MISO footprint.
 - ***IMPA has been supplying wholesale power to its members for over 33 years. IMPA has long term full requirements contracts with 60 distribution utilities, 54 of them in MISO. IMPA maintains a 24 hour market operations center at its Carmel headquarters and its market operations personnel are all PJM certified (MISO has no such certification process).***

10 Concluding Comments

IMPA has an experienced and dedicated team serving its members and is prepared to serve Logansport. The relationship between IMPA and its members goes beyond power supply. As a member of IMPA, Logansport will enjoy the benefits of a long term low cost, reliable, and environmentally responsible power supply as well as be an integral member of the IMPA Family.

EXHIBIT 1

INDIANA MUNICIPAL POWER AGENCY POWER SALES CONTRACT

This Contract entered into as of the ___ day of _____, 2016, between **INDIANA MUNICIPAL POWER AGENCY**, a body corporate and politic and a political subdivision of the State of Indiana, organized and existing under the laws of the State of Indiana (the “Agency”), and the **CITY OF LOGANSPORT, INDIANA** (the “Member”).

WITNESSETH:

WHEREAS, the Agency was organized under IC 8-1-2.2 (the “Act”) to provide a method for those Indiana cities and towns which own facilities for the distribution of electric power and energy to jointly plan, finance, develop, own and operate electric generation and transmission facilities located within the State of Indiana that are appropriate to the present and projected electric energy needs of such cities and towns; and

WHEREAS, the Agency is empowered by the Act (i) to study, plan, finance, construct, reconstruct, acquire, improve, enlarge, better, own, operate and maintain individually or jointly with one or more municipalities, joint agencies or public utilities one or more plants, works, systems or facilities necessary or convenient in the generation, transmission, transformation, purchase, sale, exchange or interchange of electric power and energy by any means whatsoever or to acquire any interest therein or any rights to the use, output or capacity thereof, and (ii) to generate, produce, transmit, deliver, exchange, purchase or sell for resale only, electric power or energy, and (iii) to make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under the Act, and (iv) to do all acts and things necessary, convenient or desirable to carry out the purposes of, and to exercise the powers granted to, the Agency under the Act; and

WHEREAS, the Member owns and operates a municipal electric utility (and owned and operated the same on January 1, 1980) which furnishes retail electric service to the public and is authorized under the Act and the laws of the State of Indiana to contract to purchase from the Agency power and energy and related services; and

WHEREAS, in order to secure an adequate, reliable and economical supply of electric power and energy for the Member’s municipal electric utility, the Agency and the Member have determined that the Agency will sell to the Member, and the Member will purchase from the Agency, power and energy on the terms and conditions set forth herein; and

WHEREAS, the Agency intends to acquire power and energy for sale and delivery to the Member and is now providing power and energy to its other members contracting with the Agency therefor through whatever means it deems advisable, including, without limitation, the purchase thereof from other public utilities and the ownership of generation and transmission facilities or any interest therein or output therefrom; and

WHEREAS, in order to enable the Agency to continue to issue its revenue bonds to pay the cost of acquiring and constructing such generation, transmission or other facilities as are useful in meeting its obligations hereunder, it is necessary for the Agency to have binding contracts with the Member and each of the other Participating Members (as defined herein) and to pledge the payments required to be made under such contracts as security for the payment of such bonds;

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

SECTION 1. Definitions.

Bond Resolution shall mean any one or more resolutions, trust agreements, loan agreements or other similar instruments providing for the issuance of Bonds.

Bonds shall mean electric utility revenue bonds, notes or other evidences of indebtedness, without regard to the term thereof, whether or not any issue of such Bonds shall be subordinated as to payment to any other issue of Bonds, from time to time issued by the Agency to finance any cost, expense or liability paid or incurred or to be paid or incurred by the Agency in connection with the investigating, studying, planning, engineering, designing, financing, installing, constructing, acquiring, operating, maintaining, retiring, decommissioning or disposing of any part of the System or otherwise paid or incurred or to be paid or incurred by the Agency in connection with the performance of its obligations under the Power Sales Contracts or for any other lawful purpose permitted under the Act for the System.

Participating Members shall mean the Member and those members of the Agency that are, or hereafter become, parties to Power Sales Contracts.

Point of Delivery shall mean any point at which the Agency shall be required to deliver power and energy to the Member as set forth in paragraph 2 of Schedule A hereto, as amended from time to time.

Point of Measurement shall mean any point at which the Agency shall be required to meter power and energy delivered to the Member as set forth in paragraph 3 of Schedule A hereto, as amended from time to time. It is understood that paragraph 3 of Schedule A shall include as a Point of Measurement the point of interconnection between any generating facility owned by the Member and the Member's distribution system.

Power Sales Contracts shall mean this Contract and other contracts providing for the sale of power and energy by the Agency to other Members, as amended from time to time, provided that it shall not include any such contract which expressly provides that it is not to be considered a Power Sales Contract.

Power Supply Resources shall mean those resources for the production of electric power and energy included in the System to the extent the same are employed by the Agency to supply electric power and energy sold under the Power Sales Contracts.

Prudent Utility Practice shall mean, at a particular time, any of the practices, methods and acts which, in the exercise of reasonable judgment in the light of the facts (including but not limited to the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto) known at the time the decision was made, would have been expected to accomplish the desired result at a reasonable cost consistent with reliability and safety. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act, to the exclusion of all others, but rather to be a number of possible practices, methods or acts.

Rate Schedule shall mean the rate schedule setting forth the rate for payments by the Member for electric power and energy delivered hereunder attached hereto as Schedule B, which Schedule B may be revised from time to time by a new schedule adopted by the Agency,

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including, without limitation, any amendment, change, deletion or addition to any of the billing components, terms or conditions, or any adjustment set forth therein, including, but not limited to, amending billing demand to provide for minimum demand whether or not based on prior demand measurements.

Revenue Requirements shall mean all costs and expenses paid or incurred or to be paid or incurred by the Agency resulting from the ownership, operation, maintenance, termination, retirement from service and decommissioning of, and repairs, renewals, replacements, additions, improvements, betterments and modifications to, the System or otherwise relating to the acquisition and sale of power and energy and transmission services and performance by the Agency of its obligations under the Power Sales Contracts, including, without limitation, the following items of cost:

- (1) payments of principal of and premium, if any, and interest on all Bonds issued by the Agency and payments which the Agency is required to make into any debt service reserve fund or account under the terms of any Bond Resolution or other contract with holders of Bonds;
- (2) amounts required under any Bond Resolution to be paid or deposited into any fund or account established by such Bond Resolution (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of monies from such funds or accounts to the funds or accounts referred to in clause (1) above;
- (3) amounts required to make derivative product payments under the Bond Resolution;
- (4) amounts which the Agency may be required to pay for the prevention or correction of any loss or damage or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are necessary to keep any facility of the System in good operating condition or to prevent a loss of revenues therefrom;
- (5) costs of operating and maintaining the System and of producing and delivering power and energy therefrom (including fuel costs, administrative and general expenses and working capital, for fuel or otherwise, and taxes or payments in lieu thereof) not included in the costs specified in the other items of this definition and costs of power supply planning and implementation associated with meeting the Agency's power supply obligations;
- (6) the cost of any electric power and energy purchased for resale by the Agency under the Power Sales Contracts and the cost of transmission service for delivery of electric power and energy under the Power Sales Contracts;
- (7) all costs incurred or associated with the salvage, discontinuance, decommissioning and disposition or sale of properties;
- (8) all costs and expenses relating to injury and damage claims required to be paid by the Agency;

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- (9) any reserves the Agency shall determine to be necessary for the payment of those items of costs and expenses referred to in clauses (1) through (7) above to the extent not already included in such clauses;
- (10) additional amounts which must be realized by the Agency in order to meet the requirement of any rate covenant with respect to coverage of principal of and interest on Bonds contained in any Bond Resolution or contract with holders of Bonds or which the Agency deems advisable in the marketing of its Bonds; and

System shall mean all properties, rights and interests in properties of the Agency, including all electric production, transmission, delivery facilities, general plant and other related facilities and any mine, well, pipeline, plant, structure or other facility for the development, production, manufacture, storage, fabrication or processing of fossil, nuclear or fuel of any kind or any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the Agency's generating plants, now existing and hereafter acquired by lease, contract, purchase or otherwise or constructed by the Agency, including any interest or participation of the Agency in any such facilities, together with all additions, betterments, extensions and improvements to said system or any part thereof hereafter made and together with all lands, easements and rights of way of the Agency and all other works, property or structures of the Agency and rights to the use of any thereof or the output, products or services therefrom or other contract rights, including, without limitation, rights for the purchase of power and energy, transmission or other services from others, and other tangible and intangible assets of the Agency used or useful in connection with or related to said system.

Notwithstanding the foregoing definition of the term System, such term shall not include any properties or interests in properties of the Agency which the Agency determines shall not constitute a part of the System for the purposes of this Contract.

SECTION 2. Term.

This Contract shall become effective upon a date to be determined by the Board of Commissioners of the Indiana Municipal Power Agency, which date shall follow the delivery and acceptance of the opinions and certificates required pursuant to Section 19 of this Contract. The Contract shall remain in effect until April 1, 2042. On April 1, 2032, and on each April 1st thereafter, the Contract term shall be extended automatically for an additional one year period (*i.e.*, on April 1, 2032, the Contract term shall extend until April 1, 2043). Notwithstanding the foregoing, this Contract may be terminated by the Member on April 1, 2042, or on any subsequent April 1st thereafter, upon the Member having given prior written notice to the Agency pursuant to Section 21 of the Contract at least ten (10) years prior to the then current date of termination. In addition, this Contract may be terminated by the Member at such time that all Bonds shall have been paid or provision for such payment shall have been made therefor pursuant to the Bond Resolution and all contractual obligations entered into by the Agency for the generation, purchase, transmission or transformation of power and energy have been terminated and provision has been made for the payment of any residual costs thereof. In no event shall the term of this Contract exceed the maximum term permitted by law.

Notwithstanding anything to the contrary set forth in the Contract, the Agency may set the rates charged to the Member from time to time pursuant to the provisions of Section 5 of the Contract so as to amortize the Member's proportionate share of the debt service and associated costs incurred subsequent to the effective date of this Contract over the term of the Contract.

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The foregoing approach to establishing rates under Section 5 shall not be considered a pattern of adverse distinction or a pattern of undue discrimination for purposes of Section 27 of the Contract.

SECTION 3. Sale and Purchase of Electricity

- (a) The Agency hereby agrees to sell and deliver to the Member, and the Member hereby agrees to purchase and receive from the Agency, commencing on the effective date of this Contract and extending through the term hereof, all electric power and energy which the Member shall require for the operation of its municipal electric system.

In the event that, pursuant to the Public Utility Regulatory Policies Act of 1978 or other provisions of law, electric power is required to be purchased from a small power production facility, a cogeneration facility or other facility, the Member and the Agency shall use their best efforts to arrange for such purchases to be made by the Agency. If such arrangements cannot be made, then the Member shall make the required purchases and sell the power purchased to the Agency at a price equal to the price paid by the Member. The Member appoints the Agency to act as its agent in all dealings with the owner of any such facility from which power is to be purchased and in connection with all other matters relating to such purchases.

- (b) The Member hereby commits itself to take and pay for all of the electric power and energy which it is required to take and receive under paragraph (a) of this Section 3 and which is made available to the Member hereunder at its Points of Measurement, such payments to be made at rates set forth in the Rate Schedule, as revised from time to time by the Agency.
- (c) The Agency is hereby authorized by the Member (i) to undertake projects from time to time which, in the sole discretion and exclusive judgment of the Agency, are necessary or desirable to enable the Agency to fulfill satisfactorily its obligations to use its best efforts to supply power and energy to the Member pursuant to this Contract, and (ii) to issue Bonds for the purpose of paying all or any part of the costs of any of the projects or purposes authorized by the Act.

SECTION 4. Electric Characteristics, Points of Delivery and Measurement.

Electricity to be furnished hereunder shall be three phase, sixty hertz alternating current. The Member shall make and pay for all connections between the system of the Member and the system of the Agency at the Points of Delivery. The Points of Delivery, the Points of Measurement and the delivery voltage shall be as set forth in Schedule A attached hereto, which Schedule may be amended from time to time to include such other Point or Points of Delivery and Point or Points of Measurement and delivery voltage as may be agreed upon by the Agency and the Member. Other provisions of Schedule A may be amended from time to time by the Agency in accordance with Prudent Utility Practice.

The Member shall install, own and maintain any necessary substation equipment at the Points of Delivery and shall install, own and maintain switching and protective equipment of adequate design and sufficient capacity on the Member's side of such Points of Delivery to

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enable the Member to take and use the power and energy supplied under this Contract without hazard to the System.

The Agency shall not be responsible for the transmission, control, use or application of power and energy provided under this Contract on the Member's side of the Point of Delivery.

The Member shall not be responsible for the transmission, control, use or application of power and energy provided under this Contract on the Agency's side of the Point of Delivery.

When Electricity is measured at more than one Point of Measurement, the maximum total coincident demand of the Member's system shall be determined by combining the recorded demand at each Point of Measurement during the same 60 minute interval.

SECTION 5. Rates

- (a) The Member shall pay the Agency for all electric power and energy furnished at the Points of Measurement hereunder at the rates and on the terms and conditions set forth in the Rate Schedule. The Agency may revise and place into effect new Rate Schedules from time to time. The Member agrees to pay the rates and charges set forth in the revised Rate Schedules from the effective date established by the Agency. In the event that, during any portion of any billing period, electric power is made available to the Member by the Agency in accordance with this Contract which the Member is required to take and receive pursuant to Section 3 hereof but which the Member fails to take and receive, the Member shall pay the Agency for such availability in an amount equal to the product of the demand charge in the Rate Schedule and the billing demand computed as provided in the Rate Schedule except that, for such purpose, the kilowatts of demand for such billing period shall be based upon the kilowatts that would have otherwise been taken as evidenced by the total electric power consumed by the Member's customers during the billing period. Payments made by the Member under the Rate Schedule shall be treated as an operating expense from the revenues of the Member's electric utility system, or other integrated utility system of the Member of which the Member's electric utility system may be a part, to the extent permitted by law, and from other funds of such system legally available therefor and shall be in addition to and not in substitution for any other payments whether on account of dues or otherwise owed by the Member to the Agency. The obligation of the Member to make payments under the Rate Schedule shall not constitute a general obligation of the Member and the Member shall not be required to make such payments from any source other than the revenues and funds referred to in the next preceding sentence. The obligation of the Member to make payments under the Rate Schedule shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be otherwise conditioned upon the performance by the Agency under this or any other agreement or instrument; provided, however, that nothing contained herein shall be construed to prevent or restrict the Member from asserting any rights which it may have against the Agency under this Contract or under any provision of law, including the institution of legal proceedings for specific performance or recovery of damages.

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The Member's electric utility system shall be deemed to be a part of an integrated utility system for purposes of Sections 5(a) and 7(a) hereof if the revenues of the electric utility system (i) are commingled with the revenues of one or more other utility systems owned by the Member, or (ii) are utilized to pay operating expenses of the Member's electric utility system and one or more other utility systems owned by the Member, or (iii) are pledged to secure bonds issued to finance one or more other utility systems owned by the Member. For purposes of this paragraph, the term "commingled" shall not be deemed to include the keeping of funds in one bank account so long as such funds are separately accounted for on the books and records of the Member.

- (b) The Agency shall establish and maintain rates in the Rate Schedule hereunder and under the other Power Sales Contracts which will provide revenues which are sufficient, but only sufficient, together with other available funds of the Agency, to meet the estimated Revenue Requirements of the Agency. In determining the rates necessary to produce sufficient revenues, the Agency shall take into account any anticipated delinquency or default in payments by Members under the Power Sales Contracts. The ratemaking methods used by the Agency to establish rates shall be consistent with Prudent Utility Practice.

At such intervals as it shall determine appropriate, but in any event not less frequently than once each calendar year, the Board of Commissioners of the Agency shall review and, if necessary, revise the Rate Schedule to insure that the rates thereunder continue to cover its estimate of the Revenue Requirements.

- (c) In connection with any revision of the Rate Schedule, the Agency shall cause a notice in writing to be given to all Members which shall set out any proposed revision of the Rate Schedule with the effective date thereof, which shall be not less than sixty days after the date of the mailing of the notice, and which shall be accompanied by an analysis of the estimated Revenue Requirements for which the Rate Schedule is proposed to be revised and the derivation of the proposed rates. The Member agrees to pay for electric power and energy made available by the Agency to it hereunder after the effective date of any revision in the Rate Schedule in accordance with the Rate Schedule as so revised. Revisions of the Energy Cost Adjustment, and the Control Area Cost Differential Factors set forth in Schedule B hereto or any substitutes or replacements thereof shall not require submission of the analysis of estimated Revenue Requirements and the derivation of the proposed adjustment to the Members.

SECTION 6. Covenants of the Agency

- (a) After satisfying, to the extent provided for herein, the total requirements of all Participating Members, the Agency shall use its best efforts to market and dispose of, under the most economically advantageous terms and conditions obtainable, all its surplus electric power and energy which in the sole judgment of the Agency can be disposed of without adversely affecting performance by the Agency under this Contract so long as it shall not result in the breach of any Agency covenant or contract.

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- (b) The Agency shall use its best efforts while following Prudent Utility Practice to provide a constant and uninterrupted supply of electric power and energy under this Contract. In the event that the Agency is not able to supply all of the electric power and energy requirements of all of the Participating Members that it is required to supply hereunder, it shall use its best efforts to allocate its electric power and energy available from its Power Supply Resources during any billing period among the Member and the other Participating Members as follows: Such allocation shall be made pro rata in accordance with their respective electric power and energy requirements supplied hereunder during the corresponding billing period of the preceding calendar year. During any period the Agency is unable to supply all of the Member's electric power and energy requirements that it is required to supply hereunder, the Agency shall not in any case be liable to the Member for damages resulting from such interruption of service and the Member shall be permitted to acquire from other sources such amount of electric power and energy which is not supplied by the Agency; provided, however, that at such time as the Agency is thereafter again able to supply all of the Member's electric power and energy requirements that it is required to supply hereunder, the Member shall be required to take and pay for such electric power and energy in accordance with the provisions hereof.
- (c) The Agency shall use its best efforts to acquire, by purchase or otherwise, and to deliver or cause to be delivered to the Points of Delivery, power and energy in the manner determined by the Agency to be most economical, dependable and otherwise feasible.
- (d) In addition to the delivery of power and energy pursuant to this Contract and the performance of all acts and actions incident thereto, the Agency agrees that it will perform or cause to be performed services, including, but not limited to: (i) coordinating and monitoring the investigating, studying, planning, engineering, designing, financing, installing, constructing, acquiring, operating, maintaining, retiring, decommissioning or disposing of any part of the System; (ii) issuing and selling Bonds; (iii) planning, undertaking, coordinating and monitoring the economic dispatching and scheduling of power and energy to the Members, but only to the extent that the Agency possesses at the time its own load control capability; and (iv) providing such other services as the Agency from time to time shall determine to be appropriate or necessary to provide an adequate, reliable and economical supply of power and energy to the Members.

SECTION 7. Covenants of the Member

- (a) The Member agrees to maintain rates for electric power and energy to its consumers subject to the approval of the Indiana Utility Regulatory Commission under and pursuant to the provisions of IC 8-1-2, to the extent the Member is subject thereto, which shall provide to the Member revenues sufficient to meet its obligations to the Agency under this Contract; to pay all other operating expenses; to pay all obligations, whether now outstanding or incurred in the future, payable from, or constituting a charge or lien on, the net revenues of its electric system; and to make any other payments required by Indiana law; and, at the option of the Member, to provide any additional revenues permitted under Indiana law. The

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Member agrees to use its best efforts to take all actions necessary or convenient to fulfill its obligations under this Section 7(a), including, but not limited to, making timely applications for rate increases and processing such applications with diligence.

The Member further covenants and agrees that if it maintains or establishes an integrated utility system of which its electric system is a part for its electric, water, gas, cable television, telephone and sanitary sewer systems (or any combination of two or more thereof which includes its electric system), it will establish, maintain and collect rates and charges for the services provided by its integrated utility system which shall produce revenues at least sufficient to enable the Member to pay all expenses attributable to the integrated utility system, including the expenses incurred in the operation and maintenance of the integrated utility system (including the obligations under this Contract), to pay the debt service requirements on any bonds, notes or other evidences of indebtedness, whether now outstanding or incurred in the future, secured by such revenues and issued to finance improvements to the integrated utility system and to make any other payments required by Indiana law.

The Member shall not be required to make payments under this Contract except from the revenues of the Member's electric utility system, or other integrated utility system of the Member of which the electric utility system is a part, and from other funds of such system legally available therefor. In no event shall the Member be required to make payments under this Contract from tax revenues.

- (b) The Member shall not sell at wholesale any of the electric power and energy delivered to it hereunder to any customer of the Member or any other entity for resale by that customer or entity, unless it has first given the Agency 60 days written notice of its intent to sell such power and energy. The Agency, after receipt of such notice, shall have 30 days in which to impose limits on the amount of power and energy to be sold or to veto such sale if the sale will jeopardize the Agency's availability of resources to serve its Members or increase the cost of power and energy to the Agency.
- (c) The Member shall not sell, lease or otherwise dispose of all or substantially all of its electric system except on 90 days prior written notice to the Agency and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions are met: (i) the Member shall assign this Contract and its rights and interest hereunder to the purchaser or lessee of the electric system and such purchaser or lessee shall assume all obligations of the Member under this Contract; (ii) if and to the extent necessary to reflect such assignment and assumption, the Agency and such purchaser or lessee shall enter into an agreement supplemental to this Contract to clarify the terms on which power and energy are to be sold hereunder by the Agency to such purchaser or lessee; (iii) the senior debt of such purchaser or lessee shall be rated in one of the four highest whole rating categories by at least one nationally-recognized bond rating agency; (iv) the Agency shall have received an opinion of counsel of recognized standing in the field of law relating to municipal bonds selected by the Agency stating that such sale, lease or other disposition will not adversely affect the value

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of this Contract as security for the payment of Bonds and the interest thereon or jeopardize the tax-exempt status of the interest on any Bond or Bonds issued by the Agency as that status is governed by Section 103(a) of the Internal Revenue Code of 1954, as amended, and the Treasury Regulations or any ruling as promulgated thereunder or as affected by a decision of any court of competent jurisdiction; (v) an opinion shall be obtained from counsel of assignee and the Agency that the assignment is lawfully permitted under IC 8-1-2.2; and (vi) the rates to be paid by the assignee, if a public utility, have been approved by the Indiana Utility Regulatory Commission.

- (d) The Member covenants and agrees that it shall take no action the effect of which would be to prevent, hinder or delay the Agency from the timely fulfillment of its obligations under this Contract, any outstanding Bonds or any Bond Resolution of the Agency.
- (e) The Member covenants and agrees that it shall not use or permit to be used any of the power and energy acquired under this Contract in any manner or for any purpose or take any other action or omit to take any action which would result in the loss of the tax-exempt status of the interest on any Bond or Bonds issued by the Agency as that status is governed by Section 103(a) of the Internal Revenue Code of 1954, as amended, and the Treasury Regulations or any rulings promulgated thereunder or as affected by a decision of any court of competent jurisdiction. The Member covenants that, prior to entering into any contract whereby a person agrees to take, or to take or pay for, power and energy provided to the Member under this Contract, the Member shall notify the Agency of its intent to enter into such contract. As soon as practicable after receipt of such notice, the Agency shall advise the Member as to whether, in the opinion of counsel of recognized standing in the field of law relating to municipal bonds selected by the Agency, the entering into of such contract would result in a violation of the covenant contained in this subsection. The Member agrees that if the Agency advises the Member that such a violation will or might result, the Member will not enter into such contract.
- (f) The Member covenants and agrees that it shall, in accordance with Prudent Utility Practice, (1) at all times operate the properties of its electric system and the business in connection therewith in an efficient manner, (2) maintain its electric system in good repair, working order and condition and (3) from time to time make all necessary and proper repairs, renewals, replacements, obligations, additions, betterments and improvements with respect to its electric system so that all times the business carried on in connection therewith shall be properly and advantageously conducted; provided, however, this covenant shall not be construed as requiring the Member to expend any funds which are derived from sources other than the operation of its electric system and provided further that nothing herein shall be construed as preventing the Member from doing so.
- (g) The Member covenants and agrees that it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which are payable from the revenues derived from its electric system superior to the payment of the operating expenses of its electric system; provided, however, that nothing herein shall limit

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the Member's present or future right to issue bonds, notes or other evidences of indebtedness or incur lease obligations which are payable on a parity with operating expenses or payable from revenues after payment of operating expenses.

SECTION 8. Meter Readings and Payment of Bills.

- (a) The Agency shall read meters or cause meters to be read at monthly intervals which coincide with the billing period established by the Agency in accordance with the Rate Schedule.

The Member shall pay for electric power and energy furnished hereunder at the office of the Agency, 11610 North College Avenue, Carmel, Indiana 46032 within 30 days of the bill; provided, however, that if said 30th day is a Sunday or legal holiday in the State of Indiana, the next following business day shall be the day on which such payment shall be due. In the event that the Member fails to make payment when due of any amount owing hereunder, the Agency may impose a late payment charge as provided in the Rate Schedule. The Agency shall bill the Member on a prompt and timely basis in accordance with a schedule to be determined by the Agency. The Agency may, whenever any amount due remains unpaid after the due date, take all steps available to it under applicable law to collect such amount and, after giving 15 days advance notice in writing of its intention to do so, discontinue service hereunder if permitted by law. The Agency may, whenever any amount due remains unpaid for 120 or more days after the due date and after giving 30 days advance notice in writing of its intention to do so, terminate this Contract. No such discontinuance or termination shall relieve the Member from liability for payment for electric power and energy furnished hereunder.

- (b) In the event the Member desires to dispute all or any part of a bill, the Member shall nevertheless pay the full amount of the bill when due and notify the Agency in writing of the grounds on which any charges in the bill are disputed and the amount in dispute. The Member will not be entitled to any adjustment on account of any disputed charges which are not brought to the attention of the Agency in the manner herein specified. Such adjustment shall be for the time period for which it can be established a billing error took place but in no event shall the adjustment period extend past 365 days or, in the event of meter errors, the date of the last meter test.

SECTION 9. Metering

- (a) The Agency shall furnish or cause to be furnished, install and maintain the necessary metering equipment required at each Point of Measurement of the Member to measure and record the electric power and energy furnished hereunder at such Point of Measurement. Such metering equipment shall provide a continuous record of the 60-minute integrated total demand of the Member at such Point of Measurement during each billing period throughout the term of this Contract. Such records shall be available at all reasonable times to authorized agents of the Member. The Member may, at its own cost, install additional metering equipment to provide a check on the Agency's metering equipment, as

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long as the Member's additional metering equipment does not interfere with the functioning, operation, or maintenance of the Agency's metering.

- (b) The Agency shall test and calibrate meters or cause meters to be tested and calibrated by comparison with accurate standards at intervals of not less than twelve months. The Agency shall also make or cause to be made special meter tests at any time at the Member's request. The cost of all tests shall be borne by the Agency except that if any special meter test made at the Member's request shall disclose that the meters are recording accurately, the Member shall reimburse the Agency for the cost of such test. Meters registering not more than two percent above or below normal shall be deemed to be accurate. The readings for any meter which shall have been disclosed by test to be inaccurate shall be corrected in accordance with the percentage of inaccuracy found by such test from the beginning of the first billing period which began after the next preceding meter test but in any case for no period longer than 365 days. Should any meter fail to register, the electric power and energy delivered during such period of failure shall for billing purposes be estimated by the Agency after consultation with the Member from the best information available. The Agency shall notify the Member or cause the Member to be notified in advance of the time of any meter reading or test so that the Member's representative may be present at such meter reading or test.
- (c) For a fractional part of a billing period at the beginning or end of service, demand charges under the Rate Schedule shall be proportionately adjusted by the Agency in the ratio that the number of hours that electric service is furnished to the Member (in such fractional billing period) bears to the total number of hours in the billing period involved. Except as provided in this paragraph (c) of this Section 9 with respect to fractional billing periods at the beginning and end of service, there shall be no proration of demand charges under the Rate Schedule for any billing period during any part of which power is made available to the Member.
- (d) Neither the Agency nor the Member shall be responsible for the transmission, control, use or application of electric power provided under this Contract on the other side of the Point of Delivery therefor and shall not, in any event, be liable for damage or injury to any person or property whatsoever arising, accruing, or resulting from, in any manner, the receiving, transmission, control, use, application, or distribution by the Agency or the Member of said electric power.

SECTION 10. Right of Access

Duly authorized representatives of the Agency and Member shall be permitted to enter the other's premises at all reasonable times in order to carry out the provisions of this Contract.

SECTION 11. Uncontrollable Forces

Neither the Agency nor the Member shall be considered to be in default in respect to any obligation hereunder (other than the obligation of the Member to pay for electric power and energy made available hereunder to the extent payment is required by Section 5(a) hereof) if prevented from fulfilling such obligations by reason of uncontrollable forces, the terms

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uncontrollable forces being deemed for the purposes of this Contract to mean any cause beyond the control of the party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, pestilence, war, riot, civil disturbance, labor disturbances, sabotage, and restraint by court or public authority, which by due diligence and foresight such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

SECTION 12. Power Factor

The Member shall maintain its system power factor in accordance with paragraph 4 of Schedule A hereto.

SECTION 13. Cooperation

If it becomes necessary by reason of any emergency or extraordinary condition for either the Agency or the Member to request the other party to furnish personnel, materials, tools, or equipment for the accomplishment of its obligations hereunder, the party so requested shall cooperate with the requesting party and render such assistance as the party so requested may determine to be available. The party making such request, upon receipt of properly itemized bills from the other party, shall promptly reimburse the other party for all costs properly and reasonably incurred by it in providing such assistance. The cost shall include an amount not to exceed ten percent (10%) for administrative and general expenses; such costs are to be determined on the basis of current charges or rates used in its own operations by the party rendering the assistance.

SECTION 14. Construction, Operation and Maintenance Standards

The Member shall own, install and maintain electrical protective relaying equipment at each point of interconnection with the Agency's transmission system. The design and operating characteristics of such equipment shall be coordinated with the Agency and subject to the Agency's approval, which approval shall not be unreasonably withheld.

SECTION 15. Assignment of Power Sales Contract

- (a) This Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Contract; provided, however, that, except for the assignment by the Agency authorized by clause (b) of this Section 15 and except for any assignment in connection with the sale, lease or other disposition of all or substantially all of the Member's electric system as provided in Section 7(c) hereof, neither this Contract nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. No assignment or transfer of this Contract shall relieve the parties of any obligation hereunder.
- (b) The Member acknowledges and agrees that the Agency may assign and pledge to any trustee or similar fiduciary designated in any Bond Resolution all of, or any interest in, its right, title and interest in and to all payments to be made to the Agency under the provisions of this Contract as security for the payment of the principal (including sinking fund installments) of, premium, if any, and interest on any Bonds and may deliver possession of this Contract to such trustee in

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connection therewith, and, upon such assignment, pledge and delivery, the Agency may grant to such trustee any rights and remedies herein provided to the Agency and thereupon any reference herein to the Agency shall be deemed, with the necessary changes in detail, to include such trustee which shall be a third party beneficiary of the covenants and agreements of the Member herein contained. Upon any such assignment, pledge and delivery, such trustee shall fulfill all of the obligations with respect to the Member that the Agency was required to fulfill prior to such assignment, pledge and delivery.

SECTION 16. Records and Accounts

The Agency shall keep accurate records and accounts of its properties and its operations in accordance with or so as to permit conversion to the Federal Energy Regulatory Commission Uniform System of Accounts prescribed for Class A and Class B Public Utilities and Licensees as in effect from time to time. Should the Federal Energy Regulatory Commission be modified or cease to exist, the records shall be maintained under the Uniform System of Accounts as adopted or used by whatever agency succeeds or takes over the duties of the Federal Energy Regulatory Commission. The Member shall have the right at any reasonable time to examine such accounts. The Agency shall cause such accounts to be audited annually by a firm of independent public accountants of national reputation and shall supply copies of such audits to the Member.

SECTION 17. Information

The Agency and the Member will promptly furnish to each other such information as may be reasonably requested from time to time in order to carry out more effectively the intent and purpose of this Contract or as may be reasonably necessary and convenient in the conduct of the operations of the party requesting such information. Without limiting the generality of the foregoing, the Member shall, upon request, furnish to the Agency all such information, certificates, engineering reports, feasibility reports, information relating to load forecasts and generation and transmission expansion plans, financial statements, opinions of counsel (including the opinion required by Section 19 hereof), official statements and other documents as shall be reasonably necessary in connection with financings of the Agency. The Agency shall furnish the Member with those reports required to be furnished pursuant to IC 8-1-2.2-25 and such other information reasonably available to it which may be requested by the Member.

SECTION 18. Amendment

Except as provided for expressly herein, neither this Contract nor any terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing executed by each party to this Contract.

SECTION 19. Opinions and Certificates as to Validity

Upon request by the Agency upon the execution and delivery of this Contract and upon request by the Agency after the effective date hereof, the Member shall furnish the Agency, in form and substance satisfactory to the Agency, with (i) an opinion of its City attorney or attorney employed by the Member, and (ii) a certificate from the Member as to each of subparagraphs (a) through (g) hereinbelow, and (iii) an opinion of IMPA's Bond Counsel as to the substance of subparagraphs (b) and (d) hereinbelow.

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- (a) The Member is a municipal corporation duly created and validly existing pursuant to the Constitution and statutes of the State of Indiana and its “governing body” (as defined in Section 2(d) of the Act) is the City Council of the City of Logansport.
- (b) The Member has full legal right and authority to enter into this Contract and to carry out its obligations hereunder.
- (c) The City Council duly approved this Contract and its execution and delivery on behalf of the Member by ordinance duly and lawfully adopted at a meeting or meetings duly called and held at which quorums were present and acting throughout and such meeting or meetings were called pursuant to necessary public notice.
- (d) This Contract has been duly authorized, executed and delivered by the appropriate officers of the Member; and, assuming that the Agency has all the requisite power and authority to execute and deliver, and has duly authorized, executed and delivered, this Contract, this Contract constitutes the legal, valid and binding obligation of the Member in accordance with its terms subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors’ rights generally. No opinion need be rendered as to the availability of any particular remedy.
- (e) The execution and delivery of this Contract by the Member, the performance by the Member of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or administrative agency having jurisdiction over the Member or its property or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond ordinance, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Member is a party or by which it or its property is bound.
- (f) All approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of the Member in connection with the execution, delivery and performance of this Contract have been obtained or made.
- (g) To the knowledge of such attorney or firm of attorneys after due inquiry, there is no litigation or other proceedings pending or threatened in any court or other tribunal of competent jurisdiction (either state or federal) questioning the creation, organization or existence of the Member or the validity, legality or enforceability of this Contract.

SECTION 20. Relationship to and Compliance with Other Instruments

It is recognized by the parties hereto that, in undertaking, or causing to be undertaken, the planning, financing, construction, acquisition, operation and maintenance of the System, the Agency must comply with the requirements of any Bond Resolution, any agreement with any owner or co-owner of or participant or co-participant in any facility included in the System

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relating to the construction, operation or maintenance thereof and all licenses, permits and regulatory approvals necessary for such planning, financing, construction, acquisition, operation and maintenance, and it is therefore agreed that this Contract is made subject to the terms and provisions of any Bond Resolution, any such agreement and all such licenses, permits, and regulatory approvals.

SECTION 21. Notices

Any notice, demand or request required or authorized by this Contract shall be properly given if mailed, postage prepaid, to the Agency at:

Indiana Municipal Power Agency
11610 North College Avenue
Carmel, Indiana 46032
Attention: President

and to the Member at:

City of Logansport
[Address]
[City, State Zip]

The foregoing addresses may be changed by similar notice at any time.

SECTION 22. Waivers

- (a) Any waiver at any time by either party hereto of its rights with respect to a default or any matter arising in connection with this Contract shall not be deemed to be a waiver with respect to any subsequent default or matter.
- (b) The failure of either party hereto to enforce at any time any of the provisions of this Contract or to require at any time performance by the other party hereto of any of the provisions hereof shall in no way be construed to be a waiver of such provisions nor in any way to affect the validity of this Contract or the right of such party thereafter to enforce each and every provision hereof.

SECTION 23. Severability

In the event that any of the terms, covenants or conditions of this Contract, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction under the circumstances, the remainder of this Contract and the application of its terms, covenants or conditions to such persons or circumstances shall not be affected thereby.

SECTION 24. Applicable Law

This Contract shall be governed by and construed in accordance with the laws of the State of Indiana.

SECTION 25. Effectiveness

This Contract shall not be effective until a Member has obtained an agreement in writing and provided a copy thereof of its wholesale power supplier to cancel or assign to the Agency the Member's current wholesale power supply contracts, interconnection agreements, or any other wholesale power supply arrangements currently in effect.

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SECTION 26. Survivorship of Obligations

The termination of this Contract shall not discharge either party thereto from any obligation it owes to the other party under this Contract by reason of any transaction, loss, cost, damage, expense, or liability which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to such termination. It is the intent of the parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Contract or whether the circumstances, events, or basis of the same shall be known or unknown at the termination of this Contract) shall survive the termination of this Contract.

SECTION 27. No Adverse Distinction

The Agency agrees that there shall be no pattern of adverse distinction and no pattern of undue discrimination in carrying out its obligations under this Agreement relating to the Member as compared to other Members; provided, however, that differences in treatment between Members under Schedule A and Schedule B of this Contract based upon variances in cost of service shall not be considered a pattern of adverse distinction or a pattern of undue discrimination for purposes of this Section.

SECTION 28. Indemnification

The Agency and the Member shall defend and hold each other harmless from any and all claims, liability and expense, including attorneys' fees, litigation expenses and any judgment arising out of any bodily injury, death or damage to property (other than bodily injury, death or damage to property proximately caused by the other party or its servants or employees), occurring on their respective sides of the Point of Delivery, including such injury, death or damage as may be suffered by the Agency or the Member or by third parties, except that the Agency and the Member shall each be responsible for all claims of its respective employees, agents and servants under workmen's compensation laws or any similar statutes. In no event shall either the Agency or the Member be liable to each other for any indirect, special, incidental or consequential damages with respect to any claim arising out of this Contract whether based on contract, tort, strict liability or otherwise.

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IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their proper officers, respectively, being thereunto duly authorized, and their respective corporate seals to be hereto affixed, as of the day, month and year first above written.

INDIANA MUNICIPAL POWER AGENCY

By: _____
Chairman

ATTEST:

Secretary

(SEAL)

CITY OF LOGANSPOUT, INDIANA

By: _____
Mayor

ATTEST:

Clerk-Treasurer

(SEAL)

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SCHEDULE A

INDIANA MUNICIPAL POWER AGENCY SERVICE SPECIFICATIONS

MEMBER: CITY OF LOGANSFORT, INDIANA

1. **Applicability.** These service specifications are applicable to the Power Sales Contract covering the supply and delivery of electric power and energy by the Agency to Logansport, Indiana (Member).
2. **Points of Delivery.** The Agency is obligated to deliver electric power and energy contracted for by the Member at the following points and voltages as shown in the diagram under paragraph 6 hereof:

Delivery Point
Identity and
Location

Delivery
Voltage

[To come.]

3. **Points of Measurement.** The Agency shall meter electric power and energy delivered to the Member as follows as shown in the diagram under paragraph 6 hereof:

Metering Point
Identity and
Location

Delivery
Voltage

[To come.]

4. **Power Factor.** The Member shall maintain its system leading and lagging power factor within the limits established for Reactive Billing Demand in Schedule B as measured at its Point or Points of Delivery.
5. **Adjustments.** (a) Where electric power and energy are metered on the low side of the transformer but the Point of Delivery is on the high side of the transformer, meter readings for all electric power and energy supplied by the Agency at such metering point will be increased by a factor or factors determined by the Agency Staff which are based upon a Transformer Test Report showing the no-load and full-load losses of the transformer and upon the load characteristics at the metering point; provided, however, that the factor used to increase meter readings may not be lower than the corresponding factor, if any, used by the Agency's supplier in rendering billing to the Agency for power and energy supplied at the same Point of Delivery. In the absence of such a Transformer Test Report, the meter readings will be increased as follows: demand (kW) readings will be increased by one percent (1%) and energy readings (kWh) will be increased by one and one-half percent (1-1/2%). These increases will compensate for transformer losses between the delivery voltage and the metering

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voltage. If there are other losses between any Point of Measurement and any Point of Delivery, an appropriate loss factor will be used to compensate for losses. (b) Where the Agency delivers electric power and energy to the Member at a Point of Delivery at a voltage less than 138,000 volts, the Billing Rates shown in Schedule B hereof shall be adjusted to compensate the Agency for costs incurred in making available transformation facilities necessary to provide service below 138,000 volts as provided therein.

6. **Diagrams.** Following is a one-line diagram of the facilities at each Point of Delivery and Point of Measurement.

[To come.]