

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

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ORIGINAL SAMPLE FORM NO. 98

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STANDARD LARGE SOLAR REC PURCHASE AGREEMENT FOR PARTICIPATION IN  
PNM'S INTERIM STEP SOLAR REC INCENTIVE PROGRAM

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Standard Large Solar REC Purchase Agreement for Participation in PNM's Interim Step Solar REC Incentive Program

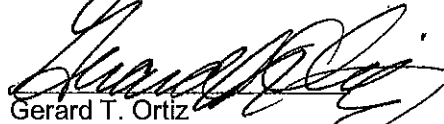
**EFFECTIVE**

JUN - 5 2012

REPLACED BY NMPRC

BY Final order case NO. 12-00072-UT

Advice Notice No. 449



Gerard T. Ortiz  
Executive Director, NM Retail Regulatory Services

GCG#514419

PUBLIC SERVICE COMPANY OF NEW MEXICO  
AGREEMENT NO. \_\_\_\_\_

STANDARD LARGE SOLAR RENEWABLE ENERGY  
CERTIFICATE PURCHASE AGREEMENT FOR  
PARTICIPATION IN PNM'S INTERIM STEP  
SOLAR REC INCENTIVE PROGRAM

**THIS AGREEMENT**, is made and entered into as of the Effective Date, as hereinafter defined, by and between \_\_\_\_\_ ("Customer") and Public Service Company of New Mexico ("PNM") (individually "Party" or collectively "Parties").

**WHEREAS**, Customer owns or leases the Premises on which the Large Solar Facility described in Section 1 below is located; and

**WHEREAS**, Customer either owns the Large Solar Facility or leases the Large Solar Facility from a third party owner; and

**WHEREAS**, in accordance with 17.9.572.13.C NMAC, Customer is the owner of certain renewable energy certificates associated with the electricity generated by the Large Solar Facility and consumed on the Premises ("Large Solar RECs") either because Customer owns the Large Solar Facility or because Customer has entered into an agreement with the third party owner by which Customer will acquire all the Large Solar RECs; and

**WHEREAS**, Customer desires to sell and PNM desires to purchase the Large Solar RECs owned by Customer pursuant to the terms of this Agreement and as provided in PNM Rate 32;

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. **SOLAR FACILITY.** Customer owns or leases the Premises on which the following solar photovoltaic ("PV") or solar thermal electric facility rated larger than 10kW<sub>AC</sub> up to 100kW<sub>AC</sub> (the "Large Solar Facility") is located. The Large Solar Facility is associated with PNM electric service account number \_\_\_\_\_ ("Electric Service Account") and is interconnected to PNM's electric distribution system pursuant to Standard Interconnection Agreement No. \_\_\_\_\_ ("Interconnection Agreement"), effective on \_\_\_\_\_ :

Solar Facility address ("Premises"): \_\_\_\_\_  
\_\_\_\_\_

Rated solar generating capacity: \_\_\_\_\_ (kW<sub>DC</sub> STC)

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kW<sub>DC</sub> STC is defined as the rated total capacity of the installed panels or collector at their DC output.

2. OWNER OF LARGE SOLAR FACILITY. Customer hereby certifies that the owner of the Large Solar Facility is (check appropriate box):

Customer

Third Party Owner

Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

3. PURCHASE AND DELIVERY OF LARGE SOLAR RECs. PNM will purchase from Customer, and Customer will deliver to PNM, the Large Solar RECs that are generated by the Solar Facility and consumed each month on the Premises as metered by PNM. The applicable rate is \_\_\_\_\_ cents per kWh as set forth in the notice by PNM that the Notice of Completion of Application and REC Reservation.. The payment for the Large Solar RECs will be calculated by multiplying the applicable rate by the number of kWh of energy generated by the Solar Facility and consumed on the Premises as measured by a PNM meter as further described in Section 5 of this Agreement. PNM will pay Customer for the Large Solar RECs by crediting Customer's monthly electric service bill unless the Customer is leasing the Premises to a tenant.

If the Solar Facility generates electricity in excess of the amount of electricity consumed each month on the Premises ("Excess Energy"), PNM shall purchase such Excess Energy at its avoided cost, and PNM shall receive from Customer, without cost, all RECs associated with such Excess Energy, to the extent authorized by the New Mexico Renewable Energy Act.

For Customers occupying the Premises: If payment for the Large Solar RECs generated up to Customer's monthly consumption exceeds the Customer's monthly electric service bill, a credit will be applied to the following month's electric service bill, provided that the balance does not exceed two hundred dollars (\$200.00). If the balance exceeds two hundred dollars (\$200.00), PNM will issue a check to Customer for the entire balance before the beginning of the Customer's next billing cycle.

For Customers leasing the Premises to a tenant: PNM will pay Customer for the Large Solar RECs generated by the Solar Facility located at the Premises up to the amount of the tenant's consumption on a monthly basis, provided the payment exceeds two hundred dollars (\$200.00).

Payments for Large Solar RECs will commence in the billing period subsequent to the execution of a Standard Interconnection Agreement and subsequent to PNM's receipt and execution of this Agreement. Purchase of Large Solar RECs produced by generating capacity added to the Large Solar System after execution of this Agreement will be made in accordance with Section 4 below.

4. **MODIFICATION OF GENERATING FACILITIES.** The rated capacity of the Solar Facility shall not be increased without prior approval of PNM and shall not be increased to a capacity greater than 1 MW<sub>AC</sub> in any event. PNM will purchase Large Solar RECs generated by a modified Solar Facility only upon execution of a new REC Purchase Agreement, at the applicable rate as of the effective date of such agreement.
5. **METERING.** Customer shall provide and install a meter socket to accommodate a PNM meter that measures only the total output of the Large Solar Facility inverter. This meter socket shall be installed in accordance with PNM's standard meter specifications and shall be in addition to the PNM meter socket used for the normal billing meter. Unless otherwise approved by PNM, this second meter socket shall be physically located next to the Customer-provided meter socket for the PNM electric billing meter. PNM shall furnish and install a standard kilowatt-hour meter for the purpose of measuring the total output of the Large Solar Facility inverter. In accordance with 17.9.570.10 NMAC, if provision of the net metering option requires metering equipment and related facilities that are more costly than would otherwise be necessary absent the requirement for net metering, Customer shall pay all incremental costs associated with installing the more costly metering equipment and facilities.

Attached hereto and incorporated herein as Appendix A is Customer's application for sale of Large Solar RECs, including a one-line diagram and three-line diagram showing the Large Solar Facility, the interconnection equipment, breaker panel(s), PNM required disconnect switches, PNM meters, PNM transformers and other required information. Customer represents and warrants that, to the best of Customer's knowledge, the information contained in Appendix A is accurate as of the date of this Agreement.

6. **TERM OF AGREEMENT.** The term of this Agreement shall begin on the Effective Date and shall end on December 31, 2020, unless earlier terminated as provided herein.
7. **TERMINATION.** This Agreement shall automatically terminate (a) upon execution of a new REC Purchase Agreement between Customer and PNM; or (b) sixty (60) days after Customer closes the Electric Service Account unless Customer assigns this Agreement and the Interconnection Agreement as provided herein; or (c) upon termination of the Interconnection Agreement

This Agreement may be terminated by a non-breaching Party if a material breach occurs with respect to the other Party at any time during the term of this Agreement. The non-breaching Party may (a) terminate this Agreement upon five (5) business

days' notice to the breaching Party, and (b) exercise such other remedies as may be available at law or in equity or as otherwise provided in this Agreement.

As used in this Agreement, "material breach" means, as to the breaching Party (a) failure to make, when due, any payment required under this Agreement if such failure is not subject to offset and is not remedied within ten (10) business days after written notice of such failure is given to the breaching Party; or (b) any representation or warranty made by the breaching Party in this Agreement shall prove to have been false or misleading in any material respect when made; or (c) failure to perform any covenant or agreement set forth in this Agreement (other than its obligations to make any payment or obligations that are otherwise specifically covered as a separate material breach), and such failure is not cured by the breaching Party within thirty (30) days of written notice from the other Party, or, if such breach is not susceptible to cure within thirty (30) days, if the breaching Party has not commenced to cure the breach within thirty (30) days and/or fails to proceed with reasonable diligence to cure such breach; under no circumstances, however, shall the total cure period exceed ninety (90) days; or (d) making an assignment or any general arrangement for the benefit of creditors; or (e) filing a petition or otherwise commencing, authorizing or acquiescing in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or having such petition filed against it and such proceeding remains undismissed for thirty (30) days; or (f) otherwise becoming bankrupt or insolvent (however evidenced), or (g) being unable to pay its debts as they become due.

If this Agreement is terminated for any reason, the final Large Solar REC payment will be calculated based on the last meter reading at the Premises and the determination of whether or not any excess generation has occurred. If Customer is occupying the Premises, the final Large Solar REC payment will be calculated and applied to Customer's final electric bill. If Customer is leasing the Premises to a tenant, the final Large Solar REC payment will be calculated and paid directly to Customer within thirty (30) calendar days. PNM may offset any final Large Solar REC payment amount against any amounts owed to PNM by Customer.

8. **TRANSFER OF PREMISES; ASSIGNMENT OF AGREEMENT.** If Customer sells the Premises and associated Solar Facility, Customer may assign this Agreement and the Interconnection Agreement to the new owner of the Premises. Such assignments must be made within sixty (60) days of the date the Customer terminates the Electric Service Account. If this Agreement and the Interconnection Agreement are not assigned within the 60-day period, this Agreement terminates.
9. **RELOCATION OF SOLAR FACILITY.** If Customer relocates the Solar Facility in its entirety to a different property within PNM's service area, Customer shall: (a) notify PNM of such relocation within 30 days before the Solar Facility is relocated; (b) submit a new Application for Interconnection for the new premises; (c) complete the interconnection process; and (d) amend this Agreement to reflect the new premises, electric service account and interconnection agreement number.

10. **INTERRUPTION OR REDUCTION OF DELIVERIES.** PNM shall not be obligated to pay for a reduction in the number of Large Solar RECs caused by interruptions of utility service or by utility-required Large Solar Facility shutdowns as specified in the executed Standard Interconnection Agreement. If service to the Electric Service Account is discontinued for any time period for any reason permitted under applicable NMPRC rules, (a) PNM shall have no liability for and shall not pay Customer for any actual or potential generation that may or could have occurred while such service was discontinued; and (b) PNM shall have no liability for and shall not pay Customer for any RECs associated with any actual or potential generation that may or could have occurred while such service was discontinued.
11. **ACCESS TO PREMISES.** PNM may enter Customer's Premises at all reasonable hours to read or test meters.
12. **NO WARRANTY OR GUARANTEE.** The Parties agree that the sale and purchase of the Large Solar RECs is not an endorsement, confirmation, warranty, guarantee or representation concerning the safety, operating characteristics, durability or reliability of the Large Solar Facility. Neither Party assumes the duty of inspecting the other Party's lines, wiring, apparatus, machinery or appliances, or any part thereof (collectively, "Associated Equipment") and shall not be responsible to the other Party therefor. PNM further disclaims any obligation to inspect, and any liability for, Associated Equipment owned by Developer. Customer agrees to install and maintain, or to have installed and maintained, in a safe and efficient manner, and in accordance with good electrical practices and all applicable regulations, all of the Associated Equipment connected at the Premises to PNM's electric distribution system.
13. **POTENTIAL TAX LIABILITY.** Customer understands that the sale and purchase of the Large Solar RECs may create a tax liability for Customer. Customer further understands that PNM may issue Internal Revenue Service Form 1099 or other tax form to Customer relating to these transactions. By signing this Agreement, Customer acknowledges and agrees that Customer has the sole responsibility for paying any federal, state or local taxes, including federal income tax, that may be due on amounts received by Customer, or credited to Customer's account, as a result of transactions under this Agreement.
14. **GOVERNING LAW.** This agreement shall be interpreted, governed, and construed under the laws of the state of New Mexico as if executed and to be performed wholly within the state of New Mexico.
15. **AMENDMENT, MODIFICATIONS OR WAIVER.** Any amendments or modifications to this Agreement shall be in writing and agreed to by both Parties. The failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any Party of the breach of any term or covenant contained in this Agreement, whether by conduct or otherwise, shall be deemed to be construed as a further or continuing waiver of any such breach or a waiver of the breach of any other term or covenant unless such waiver is in writing.

16. NOTICES. Any notice, request, approval, consent, instruction, direction or other communication required or permitted under this Agreement shall be in writing and shall be deemed given if personally delivered, delivered by reputable overnight courier or sent by First Class Mail, postage prepaid, and shall be deemed received, if personally delivered, or delivered by courier, upon delivery, and if mailed, on the third day following deposit in the U. S. mail.

If to PNM:

Attention: Customer Owned Generation Programs  
Public Service Company of New Mexico  
Alvarado Square  
Albuquerque, NM 87158-0510

If to Customer:

Customer Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_

All notices under this Agreement shall refer to the Customer's Premises set forth in Section 1 of this Agreement.

17. ASSIGNMENT. Customer shall not assign this Agreement except as permitted in Section 8.

18. REGULATORY. This Agreement shall at all times be subject to such changes and modifications as shall be required from time to time by any legally constituted regulatory body, including the Commission, having jurisdiction to require such changes and modifications. Notice shall be given in accordance with the Commission's requirements if and when the Commission is requested to take action that could cause a change in terms of this Agreement.

19. CERTIFICATIONS, REPRESENTATIONS AND WARRANTIES. Customer acknowledges and agrees that the RECs generated from the Large Solar Facility represent all of the environmental attributes associated with the generation of electricity from the Large Solar Facility. Customer certifies that the attributes represented by the Large Solar RECs are not being claimed by, delivered, sold and/or transferred to any other entity, in whole or in part. Customer also certifies that if the Premises is leased to a tenant, Customer has entered, or will enter, into an agreement with each tenant in which the tenant waives any and all right, title and interest in the Large Solar RECs. Customer will notify PNM immediately if Customer enters into a different arrangement with any tenant. If Customer is leasing the Large Solar Facility, Customer further certifies that Customer has entered into a valid and binding agreement with Developer by which all right, title and interest in the Large Solar RECs belong to Customer without recourse by Developer. Customer represents and warrants that Customer has good and marketable title to the Large Solar RECs and

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that Customer will transfer to PNM good and marketable title, free and clear of all claims, liens, security interests and encumbrances of any kind.

20. NO THIRD PARTY RIGHTS. Except as expressly provided in this Agreement, the Parties do not intend to create rights in, or grant remedies to, any third party beneficiary of this Agreement.

21. ENTIRE AGREEMENT. It is understood and agreed that all representations and agreements between the Parties covering the subject matter hereof are expressed herein and that no other representation of any kind or nature, whether made by the officers or agents of either of the Parties, shall be binding. There shall be no presumption or burden of proof favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

22. EFFECTIVE DATE. This Agreement is effective as of the last date of execution set forth below.

IN WITNESS WHEREOF, the Parties have caused two originals of this Agreement to be executed by their duly authorized representatives. This Agreement is effective as of the last date set forth below.

**CUSTOMER**

By: \_\_\_\_\_

Signature

Name: \_\_\_\_\_

Printed Name

Title: \_\_\_\_\_

e.g., "Homeowner, "Business Owner", etc.

Date: \_\_\_\_\_

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

By: \_\_\_\_\_

Signature

Name: \_\_\_\_\_

Printed Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_



APPENDIX A

CUSTOMER'S APPLICATION FOR THE SOLAR REC INCENTIVE PROGRAM  
CUSTOMER'S ONE-LINE AND THREE-LINE DIAGRAM AND  
SITE DRAWING SHOWING LARGE SOLAR SYSTEM, METERING AND  
PROTECTION EQUIPMENT