

SETTLEMENT AGREEMENT AND AMENDMENT NO. 3 TO POWER PURCHASE CONTRACT BETWEEN SOUTHERN CALIFORNIA EDISON COMPANY AND WINDPOWER PARTNERS 1993, L.P.

This Settlement Agreement and Amendment No. 3, dated March 11, 1997 ("Agreement"), is made and entered into by and between Southern California Edison company ("Edison"), a California corporation, and Windpower Partners 1993, L.P., a Delaware limited partnership ("Seller"), each referred to as "Party" and jointly as "the Parties."

RECITALS

WHEREAS, this Agreement is made with reference to the following facts, among others:

A. On or about April 16, 1985, Renewable Energy Ventures Incorporated ("REV") and Edison entered into an Interim Standard Offer No. 4 power purchase contract, identified by Edison as QFID No. 6118 (the "Interim, SO4").

B. On or about March 1, 1987, REV assigned its rights under the Interim SO4 to Riverview Ventures, Inc.

C. Amendment No. 1 to the Interim SO4 was executed between Riverview Ventures, Inc. and Edison on or about November 16, 1987.

D. Amendment No. 2 to the Interim SO4 was executed between Riverview Ventures, Inc. and Edison on or about June 8, 1994.

E. On or about April 29, 1994, Riverview Ventures, Inc. assigned its rights under the Interim SO4 to KENETECH Windpower, Inc.

F. On or about June 16, 1994, KENETECH Windpower, Inc. assigned its rights under the Interim SO4 to Seller, and Edison consented thereto.

G. The Parties currently dispute Edison's rights regarding a protocol for annually demonstrating Seller's ability to provide Contract Capacity under Section 4.4.15 of the Contract (the "Demonstration Test").

H. Without either side conceding the validity of the other side's position and recognizing the unique circumstances of this dispute, the Parties are entering into this Agreement in order to resolve their dispute.

I. The Parties have accordingly agreed to settle their dispute and amend the Contract pursuant to this Agreement, subject to the approval of the California Public Utilities Commission (the "CPUC").

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and obligations stated herein, the Parties agree as follows:

1. CONTRACT AMENDMENT

1.1 Subject to the condition subsequent of CPUC approval of this Agreement in accordance with the provisions of Section 3 below, the Contract is hereby amended, effective as of June 1, 1996, as follows:

1.1.1 Subparagraph b of Section 1.11 is amended to read in its entirety as follows:

b. The Contract capacity Price is \$ 139.50/kW-yr (Firm Capacity).

1.1.2 Section 4.4.15 of the Contract is deleted in its entirety.

2. WITHDRAWAL OF DERATION

Subject to the condition subsequent of CPUC approval of this Agreement in accordance with the provisions of Section 3 below:

2.1 Edison hereby withdraws (i) its letter dated November 1, 1995, which notified Seller that Seller's Contract Capacity had been derated to zero; and (ii) its invoice for \$ 134,379.28 rendered in connection with the deration.

2.2 Seller's Contract Capacity of 585 kW is hereby reinstated retroactively so that there is no reduction in capacity pursuant to Edison's letter dated November 1, 1995.

3. CPUC APPROVAL

The continued effectiveness of this Agreement is conditioned upon the Parties obtaining an approval hereof in a decision by the CPUC that becomes final, is no longer subject to appeal, and satisfies all of the conditions of this Section 3 (a "CPUC Decision"). The procedures by which such CPUC approval shall be obtained, and the required contents of the approval, are as follows:

3.1 CPUC approval of this Agreement shall be obtained through an application to be prepared and filed by Edison (the "Application"). Edison shall determine the final form of the Application.

3.2 The Parties shall each use its good faith efforts to obtain CPUC approval of the Application. If requested by Edison, Seller shall support the Application by promptly providing written testimony and providing witnesses to support such testimony. Seller and Edison shall both address in their respective testimony all matters in sufficient detail, as reasonably requested by Edison, in order to facilitate the CPUC approval of the Application.

3.3 To satisfy the condition subsequent created by this Paragraph 3, the CPUC Decision must (i) approve this Agreement in full and in the form presented; (ii) expressly find that the settlement effectuated by this Agreement shall amend the Contract; (iii) expressly find that Edison shall recover all payments to be made under the Contract, as amended by this Agreement, subject only to Edison's prudent administration of that Contract, as amended herein; and (iv) not impose any conditions on the present or future effectiveness of this Agreement or any of the terms hereof, or otherwise qualify or condition its approval of this Agreement.

3.4 Except as set forth under Paragraph 3.5 below, this Agreement shall be rescinded in its entirety and the parties restored to their respective positions as of June 1, 1996 if the CPUC

Decision on the Application does not satisfy each of the conditions set forth in Paragraph 3.3 above.

3.5 Upon rescission under Paragraph 3.4 above, the following shall occur:

3.5.1 The parties shall promptly meet in a good faith attempt to negotiate a new settlement agreement. These negotiations shall commence no later than 10 days after the date the CPUC Decision on the Application becomes final and is no longer subject to appeal.

3.5.2 If within 60 days after the date the CPUC Decision on the Application becomes final and is no longer subject to appeal, no new settlement agreement has been executed, then the following shall promptly occur:

3.5.2.1 Edison shall refund, with interest at the published Federal Reserve Board three month prime commercial paper rate, any capacity payments that were not made to Seller as a result of the capacity price reduction reflected in this Agreement. Interest shall be calculated on each payment from the date that payment would have first become due and payable but for this Agreement.

3.5.2.2. Edison and the Seller shall each be restored to the positions they held prior to the execution of this Agreement, and shall be entitled to assert whatever remedies and/or defenses available to them with respect to the issues in dispute. The parties also agree that the statute of limitations on any claim between them arising out of or relating to Section 4.4.15 of the Contract will be tolled for the period between June 1, 1996 and the expiration of the 60 day period described in the first sentence of section 3.5.2.

3.6 At any time prior to the conclusion of the negotiations described in section 3.5.1 above (including, but not limited to, any time before the issuance of the CPUC Decision), Edison may, in its sole discretion, waive the condition precedent of CPUC approval under this Agreement by giving Seller written notice thereof, in which case the condition of CPUC approval shall be deemed satisfied on the date of such notice.

3.7 At no time before the expiration of the 60 day period described in the first sentence of Section 3.5.2 shall either party to this Agreement take any action, before the CPUC, the California Legislature, or otherwise, with respect to the other party which is inconsistent with this Agreement.

4. REPRESENTATIONS

Each Party makes the following representations and warranties for the benefit of the other:

4.1 Seller represents and warrants to Edison that:

(a) It is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Delaware.

(b) It has full legal power and authority to enter into this Agreement, perform its obligations, and enter into the releases hereunder.

(c) Entering into this Agreement and performing its obligations hereunder will not conflict with or result in a breach of any agreement by which Seller or the Generating Facility are bound, or of

any law or regulation, order, writ, injunction or decree of any court or governmental agency applicable to the Generating Facility or Seller.

(d) Except as provided in Section 3, Seller does not require the further consent of any person or entity in order to enter into and perform its obligations under this Agreement.

(e) Seller has not assigned or otherwise transferred, or purported to assign or otherwise transfer, to any party, directly or indirectly, voluntarily, involuntarily, or by operation of law, any obligations, claims, rights, or causes of action that it may have against Edison, including any obligations, claims, rights, or causes of action being released by this Agreement; except as previously provided in the Indenture of Trust and Security Agreement dated as of March 1, 1994, as amended, between BNY Western Trust Company, as Trustee (the "Trustee"), and the Seller, and previously consented to in writing by Edison.

(f) Seller has not assigned or otherwise transferred, or purported to assign or otherwise transfer, to any party, directly or indirectly, voluntarily, involuntarily, or by operation of law, the Contract; except that Seller has granted a security assignment of the Contract to the Trustee, and previously consented to in writing by Edison.

(g) No other person or entity in addition to Seller holds or owns any of Seller's claims, rights, or causes of action being released pursuant to this Agreement; except as previously provided in the Indenture to the Trustee, and previously consented to in writing by Edison.

4.2 Edison represents and warrants to Seller that:

(a) It is a corporation duly organized, validly existing, and in good standing under the laws of the State of California.

(b) It has full corporate power and authority to enter into this Agreement and to perform its obligations hereunder.

(c) Entering into this Agreement and performing its obligations hereunder will not conflict with or result in a breach of any agreement by which Edison is bound, or of any law or regulation, order, writ, injunction or decree of any court or governmental agency applicable to Edison, and, except as provided in Section 3 does not require the further consent of any person or entity.

(d) Edison has not assigned or otherwise transferred, or purported to assign or otherwise transfer, to any party, directly or indirectly, voluntarily, involuntarily, or by operation of law, the Contract, or any obligations, claims, rights, or causes of action that it may have against Seller, including any obligations, claims, rights, or causes of action, being released by this Agreement.

(e) No other person or entity in addition to Edison holds or owns any of Edison's claims, rights, or causes of action being released pursuant to this Agreement.

5. RELEASES AND INDEMNITIES

5.1 Effective upon the CPUC Decision approving the Agreement and that CPUC Decision becoming final and non-appealable in accordance with Section 3 above, Seller and Edison, on behalf of themselves, their predecessors, successors, and assigns, shall release the other, as well as the other's employees, attorneys, officers, directors, shareholders, partners, member partners, agents, predecessors, successors, assigns, and subsidiaries, from any and all obligations, claims,

rights, demands, damages, debts, accounts, costs, expenses, attorneys fees, liens, liabilities, actions, and causes of action of any nature whatsoever, known or unknown, whether in law or in equity, accrued or unaccrued, matured or unmatured, past, present, or future, liquidated or unliquidated, fixed, contingent, or otherwise, that arise from Section 4.4.15 of the Contract, or any Demonstration Test conducted pursuant to Section 4.4.15 of the Contract, including, without limitation, any right of Edison to derate the Contract Capacity pursuant to Section 4.4.15, or any obligation of Seller to pay any sum to Edison in connection with such deration.

5.1.1 Each Party acknowledges that it may hereafter discover facts in addition to or different from those which it now believes concerning the subject matter of this Agreement, and that notwithstanding any such new or different facts, the releases contained herein shall remain effective. Each party acknowledges and agrees that these releases are an essential and material term of this Agreement. Each party has been advised by its legal counsel regarding its release, and understands and acknowledges the significance and consequences of such release.

5.2 The Parties acknowledge and agree that this is a compromise and settlement which is not in any respect nor for any purpose to be deemed or construed to be, or in any way to be used as evidence of, any admission or concession of any liability whatsoever on the part of any of them or any other person or entity whatsoever. This Agreement may be pleaded as a full and complete defense to, and the Parties consent that it may be used as the basis for an injunction against, any action suit or other proceedings inconsistent with the provisions of this Agreement. The Parties further acknowledge that this settlement is the product of the unique facts and circumstances of the present dispute between the Parties and their individual concessions, and therefore shall not establish a precedent applicable to any other contracts, disputes or parties. Without limiting the foregoing, neither the terms of, nor Edison's entry into, this Agreement (i) shall constitute or be construed as acceptance by Edison of, or agreement with, Seller's position that the absence of sufficient wind velocity constitutes an Uncontrollable Force under the Contract, (ii) shall constitute or be construed as acceptance by Edison of, or agreement with, Seller's position that the absence of sufficient wind velocity negates the validity of a properly administered capacity demonstration test (which test is eliminated for the Contract by this Agreement), or (iii) shall affect or diminish in any manner Seller's obligations under Section 9 of the Contract.

5.3 In addition to the release provided in Paragraph 5.1 above, Seller and Edison shall each indemnify and hold the other Party, and that Party's respective employees, attorneys, officers, directors, shareholders, partners, member partners, agents, predecessors, successors, assigns, and subsidiaries, harmless from and against any obligation, claim, right, demand, damage, debt, account, cost, expense, attorneys fee, lien, liability, action, or cause of action of any nature suffered or incurred as a result of any breach of any of the indemnifying party's representations, covenants, or warranties provided in this Agreement.

6. PREVIOUS COMMUNICATIONS

This Agreement contains the entire agreement and understanding between the Parties as to the subject matter of the Agreement and supersedes all prior agreements, representations, and discussions between the Parties concerning that subject matter. Each Party represents that in entering into this Agreement, it has not relied on any promise, inducement, representation, warranty, agreement, or other statement not set forth in this Agreement.

7. COST AND FEES

Each Party shall pay its own costs and attorneys fees in connection with the preparation and execution of this Agreement and any related documents, and in connection with any proceeding to obtain CPUC approval of this Agreement.

8. NON-WAIVER

None of the provisions of this Agreement shall be considered waived by a Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

9. EFFECT OF SUBJECT HEADINGS

Subject headings in this Agreement are inserted for convenience only, and shall not be construed as interpretations of text.

10. GOVERNING LAW

This Agreement shall be interpreted, governed, and construed under the laws of the State of California as an agreement executed and to be performed wholly within the State of California.

11. AMENDMENTS

This Agreement may not be altered or modified by any of the Parties except by an instrument in writing executed by each of them.

12. REVIEW OF AGREEMENT

The Parties acknowledge that they have read and understand this Agreement and further acknowledge that in entering into this Agreement, they have been advised by attorneys of their choice.

13. NOTICES

Any written notice under this Agreement shall be deemed given if delivered in person or sent by facsimile, by overnight carrier, or by first-class mail, postage prepaid, to the person specified below:

13.1 If to Edison, as follows:

Director of QF Resources
Southern California Edison Company
P.O. Box 800
2244 Walnut Grove Avenue
Rosemead, CA 91770

13.2 If to Seller, as follows:

Windpower Partners 1993
500 Sansome Street

San Francisco, CA 94111

with a copy to:

LGE Power Inc.
3200 Park Center # 400
Costa Mesa, CA 92626

Such written notice shall be deemed to be delivered on the fifth business day after deposit in the United States mail, or when received if sent by facsimile or overnight courier or delivered by hand. The designated address of a Party set forth above may be changed at any time upon written notice by the Party.

14. CONSTRUCTION

Both Parties have actively participated in the preparation of this Agreement. Accordingly, in any dispute concerning the proper construction of this Agreement, neither Party shall be deemed to have been the drafter.

15. CAPITALIZED TERMS

All terms written with initial capital letters but not defined in this Agreement shall have the meanings given them in the Contract.

16. AUTHORIZATION

Each Party represents and warrants that the person who signs below on behalf of such Party has authority to execute this Agreement on behalf of such Party without the further concurrence or approval of any person, entity or court, and that all requisite approvals and consents to enter into, and bind such Party to, this Agreement have been obtained.

17. BINDING ON SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the Parties, and on each and every one of their respective successors and assignees, and any successor or assignee of the Contract.

18. SCOPE OF AMENDMENT

Except as amended or modified by this Agreement, the Contract shall remain in full force and effect to the same extent as prior to the execution of this Agreement.

SOUTHERN CALIFORNIA EDISON COMPANY

By:
W. James Scilacci
Director
QF Resources

WINDPOWER PARTNERS 1993, L.P.

By: LG&E POWER 21 INCORPORATED

A General Partner

BY:

SEE HARDCOPY AND/OR IMAGE FILE for SIGNATURES.