

## Operational Procedure 5-1-5-O-5

### Interconnect Agreement for Systems Larger than 100 kW

This Interconnection Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by Blue Ridge Electric Membership Corporation, (“Cooperative”), a corporation organized under the laws of North Carolina, and \_\_\_\_\_ (“Interconnection Member”), each hereinafter sometimes referred to individually as “Party” or both referred to collectively as the “Parties”. In consideration of the mutual covenants set forth herein, the Parties agree as follows:

#### 1. Scope of Agreement

This Agreement is applicable to conditions under which the Cooperative and the Interconnection Member agree that one or more generating facilities (described in Exhibit A) owned by the Interconnection Member of \_\_\_\_\_ kW or less, to be interconnected at \_\_\_\_\_ kV or less (“Facilities”) may be interconnected to the Cooperative’s electric power system (“System”).

#### 2. Establishment of Point of Interconnection

The point where the electric energy first leaves the wires or facilities owned by the Cooperative and enters the wires or facilities provided by Interconnection Member is the “Point of Interconnection.” Cooperative and Interconnection Member agree to interconnect the Facilities at the Point of Interconnection in accordance with the Cooperative’s rules, regulations, by-laws, and rates (the “Rules”) which are incorporated herein by reference. The interconnection equipment installed by the Interconnection Member (“Interconnection Facilities”) shall be in accordance with the Rules as well.

#### 3. Responsibilities of Cooperative and Interconnection Member for Installation, Operation and Maintenance of Facilities

Interconnection Member will, at its own cost and expense, install, operate, maintain, repair, and inspect, and shall be fully responsible for, its Facilities and Interconnection Facilities, unless otherwise specified on Exhibit A.

Interconnection Member shall conduct operations of its Facilities and Interconnection Facilities in a safe and reliable manner, in compliance with all aspects of the Rules, and in accordance with industry standard prudent engineering practice. The Cooperative shall conduct operations of its

electric distribution facilities in compliance with all aspects of the Rules, or as further described and mutually agreed to in the applicable Facilities Schedule attached hereto as Exhibit A.

Maintenance of Facilities and Interconnection Facilities shall be performed in accordance with the applicable manufacturers' recommended maintenance schedule. The Interconnection Member agrees to cause its Facilities and Interconnection Facilities to be constructed in accordance with the Rules and specifications equal to or better than those provided by the National Electrical Safety Code and the National Electrical Code, both codes approved by the American National Standards Institute, in effect at the time of construction.

The Interconnection Member covenants and agrees to cause the design, installation, maintenance, and operation of, its Facilities and Interconnection Facilities to reasonably minimize the likelihood of a malfunction or other disturbance, damaging or otherwise affecting or impairing the System. Interconnection Member shall, at its expense, provide, install, own, operate and maintain protection facilities, including such protective and regulating devices as required by the Cooperative or as are otherwise required by industry standard prudent engineering practice in order to protect persons and property and to minimize detrimental effects to the System. Interconnection Member shall comply with all applicable laws, regulations, zoning codes, building codes, safety rules and environmental restrictions applicable to the design, installation, operation and maintenance of its Facilities and Interconnection Facilities. Interconnection Member shall obtain all environmental and other permits lawfully required by governmental authorities prior to the commencement of construction of the Facilities and the Interconnection Facilities.

Cooperative will notify Interconnection Member if there is evidence that the Facilities' or Interconnection Facilities' operation causes disruption or deterioration of service to other customers served from the System or if the Facilities' or Interconnection Facilities' operation causes damage to the System. Interconnection Member will notify the Cooperative of any emergency or hazardous condition or occurrence with the Interconnection Member's Facilities or Interconnection Facilities, which could affect safe operation of the System.

#### **4. Operator in Charge**

The Interconnection Member shall each identify an individual (by name or title) who will perform as "Operator in Charge" of the Facilities and the Interconnection Member portion of the Interconnection Facilities. This individual must be familiar with this Agreement as well as provisions of the Rules and any other agreements or regulations that may apply.

## **5. Modifications**

Either party may undertake modifications to its facilities; provided that the Interconnection Member shall not increase the output of its Facilities or make other material changes or modifications to the configuration or operation of its Facilities or Interconnection Facilities without the prior written consent of the Cooperative. In the event that the Interconnection Member plans to undertake a modification that reasonably may be expected to impact the System, the Interconnection Member shall provide the Cooperative with sufficient information regarding such modifications so that the Cooperative can evaluate the potential impact of such modification prior to commencement of the work.

## **6. Power Sales to Cooperative**

Interconnection of the Facilities with the System does not grant the Interconnection Member the right to export power nor does it constitute an agreement by the Cooperative to purchase or wheel excess power.<sup>1</sup>

## **7. Limitation of Liability, Indemnification, Consequential Damages, Force Majeure, and Default**

### **a. Limitation of Liability**

Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, incidental, consequential, or punitive damages of any kind, except as authorized by this Agreement.

### **b. Indemnity**

This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.

The Parties shall at all times indemnify, defend, and save the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any

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<sup>1</sup> If the IM wishes to export power, separate agreements must be in place for power purchase and for wheeling.

person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or inaction of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified Party shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

#### c. Consequential Damages

Other than as expressly provided for in this Agreement, neither Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

#### d. Force Majeure

As used in this Article, a Force Majeure Event shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing.

If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

e. Default

1. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in paragraph 7.e.2, the defaulting Party shall have 60 calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

2. If a Default is not cured as provided in this Article, or if a Default is not capable of being cured within the period provided for herein, or repeat Defaults have occurred, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

## **8. Testing and Testing Records**

The Interconnection Member shall provide to the Cooperative all records of testing. Testing of protection systems for intermediate and large units shall be limited to records of compliance with standard acceptance procedures and by industry standards and practices. These records shall include testing at the start of commercial operation and periodic testing thereafter. Factory

testing of pre-packaged Interconnection Facilities and the protective systems of small units shall be acceptable. In the case of a factory test, the Interconnection Member needs to provide a written description and certification by the factory of the test, the test results, and the qualification of any independent testing laboratory. In addition, the settings of the equipment being installed are to be approved by the Cooperative prior to operation. Cooperative shall have the right, but shall have no obligation or responsibility to observe Interconnection Member's tests and inspections of its Facilities and Interconnection Facilities. The foregoing rights may be exercised by the Cooperative from time to time as deemed necessary by the Cooperative upon reasonable notice to Interconnection Member.

However, the exercise or non-exercise by the Cooperative of any of the foregoing rights of observation, review or inspection shall be construed neither as an endorsement or confirmation of any aspect, feature, element, or condition of the Facilities or Interconnection Facilities or the operation thereof, nor as a warranty as to the fitness, safety, desirability, or reliability of same.

### **9. Right of Access, Equipment Installation, Removal & Inspection**

The Cooperative may send an employee, agent or contractor to the premises of the Interconnection Member at any time whether before, during or after the time the Facilities first produce energy to inspect the Facilities and Interconnection Facilities, and observe the Facility's installation, commissioning (including any testing), startup, operation, and maintenance.

At any time Cooperative shall have access to Interconnection Member's premises for any reasonable purpose in connection with the interconnection described in this Agreement, the Rules, or to provide service to its customers.

### **10. Disconnection of Facilities**

Interconnection Member retains the option to disconnect its Facilities from the System, provided that Interconnection Member notifies the Cooperative of its intent to disconnect by giving the Cooperative at least thirty (30) days' prior written notice. Such disconnection shall not be a termination of this Agreement unless Interconnection Member exercises its Termination Rights under Section 14.

Interconnection Member shall disconnect Facilities from the System upon the effective date of any termination resulting from and required by actions under Section 14.

Cooperative shall have the right to disconnect or cause the Interconnection Member to disconnect the Facilities from the System and suspend service in cases where continuance of service to

Interconnection Member will endanger persons, property or the operation of the System. During the forced outage of the System serving Interconnection Member, Cooperative shall have the right to suspend service and disconnect or cause the Interconnection Member to disconnect the Facilities from the System to effect repairs on the System, but the Cooperative shall use its reasonable efforts to provide the Interconnection Member with reasonable prior notice.

## **11. Metering**

The Cooperative shall purchase, own, install and maintain such metering equipment as may be necessary to meter the electrical output of the Facilities. All costs associated therewith shall be borne by the Interconnection Member. Metering shall meet accuracy standards required for equivalent electrical services and can be done with standard meters or any devices that meet data collection and accuracy requirements. For Facilities greater than 200 kW, telemetry may be required by Cooperative to monitor real-time output and other DG functions for large and medium generators that are operated remotely<sup>2</sup>. Telemetry data shall be available to the Cooperative and the communication of such data shall be compatible with the Cooperative's communication methods.

## **12. Disconnect**

A lockable, manually operable, visible load-break disconnecting device is required to be installed in a location readily accessible to Cooperative personnel to isolate inverter unit for safety purposes.

## **13. Insurance**

The Interconnection Member shall obtain and retain, for as long as the generating equipment is interconnected with the Cooperative's System, liability insurance which protects the Interconnection Member from claims for bodily injury and/or property damage. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. This insurance shall be primary for all purposes. The Interconnection Member shall provide, at least annually (and more frequently if requested) certificates evidencing this coverage as required by the Cooperative. The insurance company shall also be required to provide advance notice to the Cooperative of any lapse in payment or other default by the Interconnection Member which may result in lapse in insurance coverage. Such insurance shall be obtained from an insurance

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<sup>2</sup> Telemetry is not required if it is prevented via protective relaying from injecting energy into the Cooperative's electric system.