



Liberty Utilities (CalPeco Electric) LLC  
933 Eloise Avenue  
South Lake Tahoe, CA 96150  
Tel: 800-782-2506  
Fax: 530-544-4811

April 29, 2022

**VIA EMAIL ONLY**  
**edtariffunit@cpuc.ca.gov**

**Advice Letter 191-E  
(U 933-E)**

California Public Utilities Commission  
Energy Division, Tariff Unit  
505 Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94102-3298

**Subject: Liberty Utilities (CalPeco Electric) LLC (U-933 E) – Notification of Purchase of Renewable Energy Credits**

Liberty Utilities (CalPeco Electric) LLC (U 933-E) (“Liberty”) submits this **Tier 1** Advice Letter to report the purchase of unbundled renewable energy credits (“RECs”). On July 28, 2020, Liberty executed a contract to buy 21,759 RECs as part of its compliance with the California Renewables Portfolio Standard (“RPS”) program. On December 8, 2020, Liberty executed a contract to buy 7,500 RECs as part of its compliance with the RPS program. On July 23, 2021, Liberty executed a contract to buy 25,000 RECs as part of its compliance with the RPS program. On April 27, 2022, Liberty executed a contract to buy 752 RECs as part of its compliance with the RPS program. The four unbundled REC contracts are attached hereto.

**Background**

On July 28, 2020, Liberty contracted with Fathom Energy, LLC (“Fathom”) to buy 21,759 unbundled RECs as part of its compliance with the RPS. The RECs were generated by the Macho Springs Solar Project, a solar photovoltaic facility certified as RPS-eligible by the California Energy Commission (“CEC”), were tracked in the Western Renewable Energy Generation Information System (“WREGIS”), and were delivered to Liberty on July 28, 2020.

On December 8, 2020, Liberty contracted with Fathom to buy 7,500 unbundled RECs as part of its compliance with the RPS. The RECs were generated by the Limon Wind II facility, a wind facility certified as RPS-eligible by the CEC, were tracked in WREGIS, and were delivered to Liberty on November 2, 2021.

On July 23, 2021, Liberty contracted with GO2 Markets, Inc. to buy 25,000 unbundled RECs as part of its compliance with the RPS.<sup>1</sup> The RECs were generated by the Kettle Falls Woodwaste Plant, a biomass facility certified as RPS-eligible by the CEC, were tracked in WREGIS, and were delivered to Liberty on August 23, 2021.

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<sup>1</sup> The July 23, 2021 contract was amended on October 4, 2021 to add the California Public Utilities Commission-required “Eligibility” standard term and condition.

On April 27, 2022, Liberty contracted with GO2 Markets, Inc. to buy 752 unbundled RECs as part of its compliance with the RPS. The RECs were generated by the Klondike Wind Power III facility, a wind facility certified as RPS-eligible by the CEC, were tracked in WREGIS, and were delivered to Liberty on April 18, 2022.

**Effective Date**

Liberty requests that this Tier 1 advice filing become effective **April 29, 2022**.

**Protests**

Anyone wishing to protest this filing must submit the protest by email, which must be received no later than May 19, 2022, which is 20 days after the date of this filing. The protest shall set forth the grounds upon which it is based and shall be submitted expeditiously. There is no restriction on who may file a protest. Protests should be sent to:

California Public Utilities Commission  
Energy Division, Tariff Unit  
Email: [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

The protest also should be sent via email and U.S. Mail (and by facsimile, if possible) to Liberty at the addresses show below on the same date it is mailed or delivered to the Commission.

Liberty Utilities (CalPeco Electric) LLC  
Attn.: Advice Letter Protests  
933 Eloise Avenue  
South Lake Tahoe, CA 96150  
Fax: 530-544-4811  
Email: [Cindy.Fisher@libertyutilities.com](mailto:Cindy.Fisher@libertyutilities.com)

**Notice**

In accordance with General Order 96-B, Section 4.3, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address change requests to Liberty's GO 96-B service list should be directed by electronic mail to:  
[AnnMarie.Sanchez@libertyutilities.com](mailto:AnnMarie.Sanchez@libertyutilities.com).

If additional information is required, please do not hesitate to contact me.

Sincerely,

/s/ Cindy Fisher

Cindy Fisher  
Senior Manager, Rates and Regulatory Affairs

cc: Liberty General Order 96-B Service List

Liberty Utilities (CalPeco Electric) LLC  
Advice Letter Filing Service List  
General Order 96-B, Section 4.3

**VIA EMAIL**

gbinge@ktminc.com;  
emello@sppc.com;  
epoole@adplaw.com;  
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cbk@eslawfirm.com;  
bhodgeusa@yahoo.com;  
chilen@nvenergy.com;  
phanschen@mofo.com;  
liddell@energyattorney.com;  
cem@newsdata.com;  
dietrichlaw2@earthlink.net;  
ericj@eslawfirm.com;  
clerk-recorder@sierracounty.ws;  
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tlg@cpuc.ca.gov;  
dao@cpuc.ca.gov;  
ljt@cpuc.ca.gov;  
mmg@cpuc.ca.gov;  
kjl@cpuc.ca.gov;  
denise.tyrrell@cpuc.ca.gov;  
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judypau@dwt.com;  
dwtcpucdockets@dwt.com;  
patrickferguson@dwt.com;  
travis.ritchie@sierraclub.org;  
dan.marsh@libertyutilities.com;  
sharon.yang@libertyutilities.com;  
ginge@regintluc.com

**Attachment A**

**July 28, 2020 Agreement for Purchase and Sale of Renewable Energy Certificates**



# AGREEMENT FOR PURCHASE AND SALE OF RENEWABLE ENERGY CERTIFICATES

The purpose of this letter ("Confirmation Letter") entered into on this **28 day of July 2020** ("Contract Date") is to confirm the terms and conditions of the transaction between **Fathom Energy, LLC** ("Seller") and **Liberty Utilities (Calpeco Electric) LLC** ("Buyer") as of the Trade Date (the "Transaction"). Seller and Buyer are each referred to as a "Party" and, collectively, as the "Parties." This Confirmation Letter, including the attached Terms and Conditions, shall constitute the entire agreement ("Agreement") between the Parties related to the subject matter hereof and supersedes and replaces any prior oral or written confirmation, including broker confirmations, regarding this Transaction.

The terms of the Transaction to which this Confirmation Letter relates are as follows:

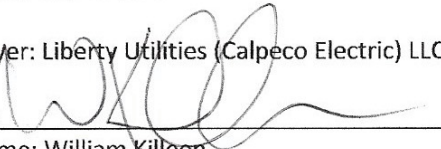
<b>Seller:</b>	Fathom Energy, LLC		<b>Buyer:</b>	Liberty Utilities (Calpeco Electric) LLC
<b>Trade Date:</b>	06/16/2020	<b>Delivery Date:</b>	On or before 07/01/2020	
<b>Product Price:</b>	\$1.95	<b>Product Vintage:</b>	2017 & 2018	
<b>Product Quantity:</b>	21,759	<b>Deal Value:</b>	\$42,430.05	

<b>Product Siting:</b>	NM
<b>Registry for Product Delivery:</b>	WREGIS
<b>Other:</b>	N/A
<b>Product Type:</b>	PCC 3 Unbundled Renewable Energy Credits
<b>Technology:</b>	N/A
<b>State:</b>	CA

Capitalized terms used but not defined herein shall have the meanings given to them in the General Terms and Conditions.

Buyer: Liberty Utilities (Calpeco Electric) LLC

Seller: Fathom Energy, LLC

By: 

Name: William Killeen

Title: Director, Energy Procurement

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

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

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

## AGREEMENT FOR PURCHASE AND SALE OF RENEWABLE ENERGY CERTIFICATES

The purpose of this letter ("Confirmation Letter") entered into on this      day of June 2020 ("Contract Date") is to confirm the terms and conditions of the transaction between **Fathom Energy, LLC** ("Seller") and **Liberty Utilities (Calpeco Electric) LLC** ("Buyer") as of the Trade Date (the "Transaction"). Seller and Buyer are each referred to as a "Party" and, collectively, as the "Parties." This Confirmation Letter, including the attached Terms and Conditions, shall constitute the entire agreement ("Agreement") between the Parties related to the subject matter hereof and supersedes and replaces any prior oral or written confirmation, including broker confirmations, regarding this Transaction.

The terms of the Transaction to which this Confirmation Letter relates are as follows:

<b>Seller:</b>	Fathom Energy, LLC		<b>Buyer:</b>	Liberty Utilities (Calpeco Electric) LLC
<b>Trade Date:</b>	06/16/2020	<b>Delivery Date:</b>	On or before 07/01/2020	
<b>Product Price:</b>	\$1.95	<b>Product Vintage:</b>	2017 & 2018	
<b>Product Quantity:</b>	21,759	<b>Deal Value:</b>	\$42,430.05	

<b>Product Siting:</b>	NM
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<b>Other:</b>	N/A
<b>Product Type:</b>	PCC 3 Unbundled Renewable Energy Credits
<b>Technology:</b>	N/A
<b>State:</b>	CA

Capitalized terms used but not defined herein shall have the meanings given to them in the General Terms and Conditions.

Buyer: Liberty Utilities (Calpeco Electric) LLC

Seller: Fathom Energy, LLC

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

Name: William Killeen

Title: Director, Energy Procurement

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

Name: Jack Confick

Title: LEAD Analyst

## TERMS AND CONDITIONS

### ARTICLE 1: DEFINITIONS

1.1 Bankrupt. “Bankrupt” means an entity that has (i) filed a petition or otherwise commenced, authorized or acquiesced in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) had any such petition filed or commenced against it and not dismissed within 30 days, (iii) made an assignment or any general arrangement for the benefit of creditors, (iv) otherwise become bankrupt or insolvent, however evidenced, (v) had a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (vi) become generally unable to pay its debt when due.

1.2 California Renewables Portfolio Standard. “California Renewables Portfolio Standard” means the renewable energy program and policies codified in California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

1.3 Change in Law. “Change in Law” means that, prior to the Delivery of the Product, a statute, rule, or regulation is enacted, amended or revoked which has the effect of (a) changing the transfer and sale procedures set forth in this Agreement so that the implementation of this Agreement becomes impossible or impracticable, (b) making this Agreement illegal or unenforceable, or (c) eliminating the existence of the Product.

1.4 CPUC. “CPUC” means the California Public Utilities Commission, or any successor entity.

1.5 CPUC Approval. “CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer’s administration of the Agreement; and

(b) finds that any procurement pursuant to this Agreement is procurement of Renewable Energy Credits that conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent legislation, for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.1 et seq.), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable. (STC REC-3: CPUC Approval)

1.6 Delivery. “Deliver”, “Delivered” or “Delivery” means the electronic transfer from Seller to Buyer of the specified amount of the Product via the Registry, in accordance with the Registry’s Operating Rules.

1.7 Delivery Date. “Delivery Date” means the actual date of Delivery of Product to Buyer’s Registry account.

1.8 Eligible Renewable Energy Resource or ERR. “Eligible Renewable Energy Resource” or “ERR” is defined in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25741, as either code provision is amended or supplemented from time to time.

1.9 Facility. “Facility” means the renewable energy generation facility [alternatively, insert specific facility name] certified as an ERR providing the Product.

1.10 Product. “Product” means the Renewable Energy Credit (“RECs”) to be Delivered pursuant to the Transaction.

1.11 Registry. “Registry” means the Western Renewable Energy Generation Information System (WREGIS).

1.12 Renewable Energy Credit or REC. “Renewable Energy Credit” or “REC” means a Renewable Energy Credit as defined in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time, evidenced by a WREGIS Certificate, and is equivalent to one (1) MWh of energy from the Facility which must be qualified and certified as an ERR.

1.13 STC. “STC” means the standard terms and conditions required by the CPUC for contracts intended to qualify towards the California Renewables Portfolio Standard.

1.14 Trade Date. “Trade Date” means the date that the purchase was executed in the market as set forth in the Confirmation Letter.

1.15 WREGIS. “WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

1.16 WREGIS Certificate. “WREGIS Certificate” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are eligible for complying with the California Renewables Portfolio Standard.

1.17 WREGIS Operating Rules. “WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS, as amended, supplemented, or replaced from time to time.

## **ARTICLE 2: TRANSACTION, PAYMENT, TAXES AND TRANSFER OF TITLE**

2.1 Transaction. The Parties desire to enter into a transaction for the purchase and sale of Product under this Agreement (“Transaction”). Such Transaction, unless otherwise agreed in writing, will be governed by this Agreement. The Transaction will be effected or confirmed pursuant to a Confirmation Letter.

2.2 Payment. Seller shall deliver an invoice to Buyer reflecting the Product Price multiplied by the number of RECs Delivered following Seller’s Delivery of the Product (“Invoice”). The Invoice may be furnished to Buyer by email or otherwise in writing. Within ten (10) business days of the later of (a) Buyer’s receipt of the Invoice and (b) Buyer’s receipt of confirmation that the Product have been Delivered to Buyer’s WREGIS account, Buyer shall pay Seller for the Product so Delivered. All payments made under this Agreement shall be made in immediately available United States Dollars by electronic transfer.

2.3 Taxes and Fees. Seller will be responsible for any taxes imposed on the creation, ownership, or transfer of Product under this Agreement up to and including the time and place of Delivery. Buyer will be responsible for any taxes imposed

on the receipt or ownership of Product at or after the time and place of Delivery. Each Party will be responsible for the payment of any fees, including brokers' fees, incurred by it in connection with any Transactions hereunder.

2.4 Transfer of Title. None of Seller's property interest in the Product will pass to Buyer until the Delivery and payment set forth above are complete. Upon such completion, all rights, title and interest in and to the Product, to the full extent the same is property, will transfer to Buyer. To the extent that any Transaction is for Product not yet generated at the time of the Transaction, Seller agrees to promptly make and Buyer agrees to accept actual Delivery of the Product.

### **ARTICLE 3: REPRESENTATIONS AND WARRANTIES**

3.1 Mutual Representations and Warranties. On the Contract Date, each Party represents and warrants to the other that:

- (a) It is duly organized and validly existing under the laws of the jurisdiction of its incorporation or organization;
- (b) It has the power and authority to enter into this Agreement and to perform its obligations hereunder;
- (c) Its execution and performance do not violate or conflict with applicable law, any provision of its constituent documents, or any contract binding on or affecting it or any of its assets or any order or judgment of any governmental authority applicable to it or its assets;
- (d) All governmental and other authorizations, approvals, consents, notices and filings that are required to have been obtained or submitted by it with respect to entering into and performing this Agreement have been obtained or submitted and are in full force and effect and all conditions thereof have been complied with;
- (e) No Event of Default, as defined in section 4.1 has occurred and is continuing, and none will occur as a result of its entering into or performing this Agreement or the Transaction;
- (f) It is not relying upon any representations of the other Party other than those expressly set forth herein, and it is acting for its own account, and not as agent or in any other capacity, fiduciary or otherwise; and
- (g) It has entered into this Agreement with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks.

3.2 Warranties of Seller.

(a) With respect to the Product, Seller represents and warrants to Buyer that as of the Delivery Date: (i) Seller has good and marketable title to such Product; (ii) all right, title and interest in and to such Product are free and clear of any liens, taxes, claims, security interests or other encumbrances except for any right or interest by any entity claiming through Buyer; and (iii) each REC meets the specifications set forth in the Confirmation Letter.

(b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement



that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC 6: Eligibility)

(c) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC REC-1: Transfer of Renewable Energy Credits)

(d) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. (STC REC-2: Tracking of RECs in WREGIS)

3.3 LIMITATION OF WARRANTIES. ALL OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR WITH RESPECT TO CONFORMITY WITH ANY MODEL OR SAMPLES, ARE DISCLAIMED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY HEREUNDER WITH RESPECT TO ANY FUTURE ACTION OR FAILURE TO ACT OR APPROVAL OR FAILURE TO APPROVE BY ANY GOVERNMENTAL AUTHORITY.

3.4 Indemnity. Each Party will indemnify, defend and hold harmless the other Party from and against any fees or taxes for which such Party is responsible under Section 2.3.

3.5 Survival. Articles 1, 2, 3, 4, and 6 survive expiration or termination hereof.

#### **ARTICLE 4: EVENTS OF DEFAULT; REMEDIES**

4.1 Events of Default. An "Event of Default" means, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant hereto if such failure is not remedied within five (5) business days after receipt of written notice;
- (b) Failure to Deliver or receive Product when due pursuant to the Transaction;
- (c) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when repeated, and is not remedied within ten (10) business days after receipt of written notice;
- (d) Such Party becomes Bankrupt; or

(e) A Party's failure to perform any other material covenant or obligation set forth herein if such failure is not remedied within twenty (20) business days after receipt of written notice.

4.2 Declaration of Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party occurs and is continuing, the other Party (the "Non-Defaulting Party") will have the right to (i) upon no less than 20 business days' written notice to the Defaulting Party terminate this Agreement ("Early Termination Date"), to accelerate all amounts owing between the Parties and to liquidate and terminate the Transaction ("Terminated Transaction") between the Parties, or (ii) withhold any payments due to the Defaulting Party under this Agreement. The Non-Defaulting Party will calculate, in a commercially reasonable manner, a settlement amount in respect of a Terminated Transaction as follows ("Settlement Amount"):

(a) If Buyer is in default and Seller elects Early Termination: Buyer shall pay Seller an amount equal to the sum of (i) the Product Price multiplied by the Product Quantity for any Product Delivered to Buyer for which Seller has not been paid, and (ii) the positive difference, if any, obtained by subtracting the Sales Price for any Product not received from the Product Price for such Product not received multiplied by the amount of Product (in REC units) not received, plus reasonable third party fees (including broker fees) incurred by Seller in enforcement and protection of its rights under this Agreement. "**Sales Price**" means the price per REC, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the Product for the deficiency, or, absent such a sale, the market price per REC for the Product at or during the time that Buyer fails to accept the Product. In determining the market price, Seller may rely on one or more quotes by independent third-party brokerage services; provided, however, that if Seller is unable, despite using commercially reasonable efforts, to effect a resale transaction of all or any part of the Product, the market price thereof shall be deemed to be zero.

(b) If Seller is in default and Buyer elects Early Termination: Seller shall pay Buyer an amount equal to the positive difference, if any, obtained by subtracting the Product Price for any Product not delivered from the Replacement Price for such Product not delivered, multiplied by the amount of Product (in REC units) not delivered, plus reasonable third party fees (including broker fees) incurred by Buyer in enforcement and protection of its rights under this Agreement. "**Replacement Price**" means the price per REC, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute Product for the deficiency, or, absent such a purchase, the market price per REC for the Product at or during the time that Seller fails to deliver the Product. In determining the market price, Buyer may rely on one or more quotes by independent third-party brokerage services; provided, however, that if Buyer is unable, despite using commercially reasonable efforts, to effect a resale transaction of all or any part of the Product, the market price thereof shall be deemed to be zero.

4.3 Liquidated Damages. TO THE EXTENT THAT THE ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE REMEDIES PROVIDED HEREIN AND THE DAMAGES CALCULATED PURSUANT TO THIS ARTICLE REPRESENT A REASONABLE APPROXIMATION OF THE HARM OR LOSS AND NO PORTION THEREOF CONSTITUTES A PENALTY.

4.4 Calculation Disputes. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Settlement Amount, in whole or in part, the Defaulting Party will, within three (3) Business Days of receipt of the Non-Defaulting Party's calculation, provide the Non-Defaulting Party a detailed written explanation of the basis for such dispute, provided, however, the Defaulting Party shall pay the undisputed amount.

4.5 Suspension of Performance. Notwithstanding any other provision hereof, if an Event of Default has occurred and is continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, has the right (i) to suspend performance under any or all Transactions and (ii) to the extent an Event of Default has occurred and is continuing, to exercise any remedy available at law or in equity.

4.6 Limitation of Liability. IN THE EVENT OF A DEFAULT, THE DEFAULTING PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, AND SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY HEREUNDER. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE.

#### **ARTICLE 5: CHANGE IN LAW**

5.1 Change in Law. If a Change in Law occurs, the Parties hereto agree to negotiate in good faith to amend this Agreement to conform to such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement. However, in no event will a Change in Law that changes in any respect the value of the Product, have any effect on the obligations of the Parties to purchase and sell the Product on the terms and at the Product Price set forth in this Agreement. If the Parties are unable, despite such good faith efforts, to reform this Agreement within fifteen (15) business days following commencement of such negotiations, either Party may terminate this Agreement with no further payment or performance obligations except for any such obligations that have accrued prior to such termination.

#### **ARTICLE 6: MISCELLANEOUS**

6.1 Assignment. Neither Buyer nor Seller shall assign this Agreement nor delegate any of its duties hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that either Party, without the consent of the other Party, may assign this Agreement to any of its affiliates provided that such assignee's creditworthiness shall be equal to or greater than that of the assignor; and provided further that Seller may assign this Agreement without the consent of Buyer as collateral security to any lender (and in connection therewith, Buyer shall execute and deliver to such lender a consent agreement in a form reasonably acceptable to Buyer). Any assignment in violation of this Article 6.1 shall be voidable at the sole discretion of the non-assigning Party.

6.2 Notices. All notices, requests, statements or payments will be made as specified in the writing. Notices, unless otherwise specified herein, must be in writing and delivered by hand delivery, mail, overnight courier service or email address set forth in the Notice Contact Schedule attached hereto.

6.3 General.

(a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter. Any prior agreement or negotiation between the Parties with respect to the subject hereof is superseded.

(b) No amendment or modification hereto or to any written Confirmation Letter is enforceable unless in writing and executed by both Parties.

(c) The waiver by either Party of a default or a breach by the other Party will not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either Party with knowledge of the existence of a default or breach will not operate as a waiver of any default or breach.

(d) Except as set forth in Article 5.1, if any provision hereof is, for any reason, determined to be invalid, illegal, or unenforceable in any respect, the Parties will negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions that will, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other



provisions hereof will, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

(e) This Agreement may be executed in counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same original instrument.

6.4 Confidentiality. Neither Party will disclose the terms or conditions this Agreement to a third party (other than the Party's employees, guarantor, lenders, counsel, accountants, agents or advisors who have a need to know such information and have agreed to keep such terms confidential) except:

(a) In order to comply with any applicable law or regulation, or request of any regulatory agency having jurisdiction over the Party and requesting the confidential information in the ordinary course of business; or

(b) In connection with any court or regulatory proceeding;

provided, however; in each case, that such Party may release confidential information, or a portion thereof, to the court, governmental agency or authority, as required by the applicable law, statute, ordinance, decision, order or regulation, provided that such Party has notified the other Party in writing as soon as reasonably practicable, if permitted by law, of the required disclosure, such that the other Party may attempt (if such Party so chooses at its sole cost and expense) to cause that court, governmental agency or authority to treat such information in a confidential manner or to prevent such information from being disclosed or otherwise becoming part of the public domain.

6.5 Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. (STC 17: Applicable Law)

6.6 Dispute Resolution. Any dispute or claim arising out of or related hereto or any breach thereof or any need for interpretation related to any dispute arising out of or related hereto will be settled by binding arbitration administered by the American Arbitration Association, by a panel of three (3) arbitrators, one chosen by each Party. The arbitrators chosen by each Party will select the third arbitrator.

6.7 Force Majeure.

(a) "Force Majeure" means an event or circumstance which materially adversely affects the ability of a Party to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Trade Date and which is not within the reasonable control of, or the result of the negligence of, the Party claiming Force Majeure, and which the claiming Party is unable to overcome or avoid or cause to be avoided, by the exercise of reasonable care. Force Majeure may not be based on (i) the loss or failure of Buyer's markets; (ii) Buyer's inability economically to use or resell the Product; (iii) Seller's ability to sell the Product to another at a price greater than the Product Price; (iv) Buyer's ability to produce the Product; or (v) Buyer's ability to purchase product similar to the Product at a price less than the Product Price. Force Majeure may include a Change in Law. In the case of a Party's obligation to make payments hereunder, Force Majeure will be only an event or act of a governmental authority that on any day disables the banking system through which a Party makes such payments.

(b) If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of the business day following such receipt to notify the claiming Party that it objects to or disputes the existence of an event of Force Majeure.

###

## **NOTICE CONTACT SCHEDULE**

### **("BUYER")**

#### **NOTICES TO:**

Liberty Utilities (CalPeco Electric) LLC  
P.O. Box 107  
701 National Ave.  
Tahoe Vista, California 96148  
Attn: President  
Facsimile: (530)646-1715

#### **WITH A COPY TO:**

Algonquin Power & Utilities Corp.  
354 Davis Road  
Oakville, Ontario L6J 2X1  
Attn: Chief Legal Counsel

## **NOTICE CONTACT SCHEDULE (continued)**

#### **NOTICES TO:**

Fathom Energy LLC  
2925 Richmond Avenue  
Suite #1265  
Houston, Texas 77098  
Attn: Fathom REC Settlements  
Facsimile: (713) 240 – 5504  
Email: [Houstonoffice@fathomenergy.us](mailto:Houstonoffice@fathomenergy.us)

**Attachment B**

**December 8, 2020 Agreement for Purchase and Sale of Renewable Energy  
Certificates**

## AGREEMENT FOR PURCHASE AND SALE OF RENEWABLE ENERGY CERTIFICATES

The purpose of this letter ("Confirmation Letter") entered into on this **8th day of December 2020** ("Contract Date") is to confirm the terms and conditions of the transaction between **Fathom Energy, LLC** ("Seller") and **Liberty Utilities (Calpeco Electric) LLC** ("Buyer") as of the Trade Date (the "Transaction"). Seller and Buyer are each referred to as a "Party" and, collectively, as the "Parties." This Confirmation Letter, including the attached Terms and Conditions, shall constitute the entire agreement ("Agreement") between the Parties related to the subject matter hereof and supersedes and replaces any prior oral or written confirmation, including broker confirmations, regarding this Transaction.

The terms of the Transaction to which this Confirmation Letter relates are as follows:

<b>Seller:</b>	Fathom Energy, LLC	<b>Buyer:</b>	Liberty Utilities (Calpeco Electric) LLC
<b>Trade Date:</b>	12/08/2020	<b>Delivery Date:</b>	On or before 12/31/2020
<b>Product Price:</b>	\$5.50	<b>Product Vintage:</b>	2020 Compliant
<b>Product Quantity:</b>	7,500	<b>Deal Value:</b>	\$41,250.00

<b>Product Siting:</b>	NM
<b>Registry for Product Delivery:</b>	WREGIS
<b>Other:</b>	N/A
<b>Product Type:</b>	PCC 3 Unbundled Renewable Energy Credits
<b>Technology:</b>	N/A
<b>State:</b>	CA

Capitalized terms used but not defined herein shall have the meanings given to them in the General Terms and Conditions.

Buyer: Liberty Utilities (Calpeco Electric) LLC

Seller: Fathom Energy, LLC

By: 

Name: William Killeen

Title: Director, Energy Procurement

By: 

Name: Francisco Padua

Title: Manager

## TERMS AND CONDITIONS

### ARTICLE 1: DEFINITIONS

1.1 Bankrupt. “Bankrupt” means an entity that has (i) filed a petition or otherwise commenced, authorized or acquiesced in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) had any such petition filed or commenced against it and not dismissed within 30 days, (iii) made an assignment or any general arrangement for the benefit of creditors, (iv) otherwise become bankrupt or insolvent, however evidenced, (v) had a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (vi) become generally unable to pay its debt when due.

1.2 California Renewables Portfolio Standard. “California Renewables Portfolio Standard” means the renewable energy program and policies codified in California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

1.3 Change in Law. “Change in Law” means that, prior to the Delivery of the Product, a statute, rule, or regulation is enacted, amended or revoked which has the effect of (a) changing the transfer and sale procedures set forth in this Agreement so that the implementation of this Agreement becomes impossible or impracticable, (b) making this Agreement illegal or unenforceable, or (c) eliminating the existence of the Product.

1.4 CPUC. “CPUC” means the California Public Utilities Commission, or any successor entity.

1.5 CPUC Approval. “CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer’s administration of the Agreement; and

(b) finds that any procurement pursuant to this Agreement is procurement of Renewable Energy Credits that conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent legislation, for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.1 et seq.), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable. (STC REC-3: CPUC Approval)

1.6 Delivery. “Deliver”, “Delivered” or “Delivery” means the electronic transfer from Seller to Buyer of the specified amount of the Product via the Registry, in accordance with the Registry’s Operating Rules.

1.7 Delivery Date. “Delivery Date” means the actual date of Delivery of Product to Buyer’s Registry account.



1.8 Eligible Renewable Energy Resource or ERR. "Eligible Renewable Energy Resource" or "ERR" is defined in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25741, as either code provision is amended or supplemented from time to time.

1.9 Facility. "Facility" means the renewable energy generation facility [alternatively, insert specific facility name] certified as an ERR providing the Product.

1.10 Product. "Product" means the Renewable Energy Credit ("RECs") to be Delivered pursuant to the Transaction.

1.11 Registry. "Registry" means the Western Renewable Energy Generation Information System (WREGIS).

1.12 Renewable Energy Credit or REC. "Renewable Energy Credit" or "REC" means a Renewable Energy Credit as defined in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time, evidenced by a WREGIS Certificate, and is equivalent to one (1) MWh of energy from the Facility which must be qualified and certified as an ERR.

1.13 STC. "STC" means the standard terms and conditions required by the CPUC for contracts intended to qualify towards the California Renewables Portfolio Standard.

1.14 Trade Date. "Trade Date" means the date that the purchase was executed in the market as set forth in the Confirmation Letter.

1.15 WREGIS. "WREGIS" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

1.16 WREGIS Certificate. "WREGIS Certificate" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are eligible for complying with the California Renewables Portfolio Standard.

1.17 WREGIS Operating Rules. "WREGIS Operating Rules" means those operating rules and requirements adopted by WREGIS, as amended, supplemented, or replaced from time to time.

## **ARTICLE 2: TRANSACTION, PAYMENT, TAXES AND TRANSFER OF TITLE**

2.1 Transaction. The Parties desire to enter into a transaction for the purchase and sale of Product under this Agreement ("Transaction"). Such Transaction, unless otherwise agreed in writing, will be governed by this Agreement. The Transaction will be effected or confirmed pursuant to a Confirmation Letter.

2.2 Payment. Seller shall deliver an invoice to Buyer reflecting the Product Price multiplied by the number of RECs Delivered following Seller's Delivery of the Product ("Invoice"). The Invoice may be furnished to Buyer by email or otherwise in writing. Within ten (10) business days of the later of (a) Buyer's receipt of the Invoice and (b) Buyer's receipt of confirmation that the Product have been Delivered to Buyer's WREGIS account, Buyer shall pay Seller for the Product so Delivered. All payments made under this Agreement shall be made in immediately available United States Dollars by electronic transfer.

2.3 Taxes and Fees. Seller will be responsible for any taxes imposed on the creation, ownership, or transfer of Product under this Agreement up to and including the time and place of Delivery. Buyer will be responsible for any taxes imposed

on the receipt or ownership of Product at or after the time and place of Delivery. Each Party will be responsible for the payment of any fees, including brokers' fees, incurred by it in connection with any Transactions hereunder.

2.4 Transfer of Title. None of Seller's property interest in the Product will pass to Buyer until the Delivery and payment set forth above are complete. Upon such completion, all rights, title and interest in and to the Product, to the full extent the same is property, will transfer to Buyer. To the extent that any Transaction is for Product not yet generated at the time of the Transaction, Seller agrees to promptly make and Buyer agrees to accept actual Delivery of the Product.

### **ARTICLE 3: REPRESENTATIONS AND WARRANTIES**

3.1 Mutual Representations and Warranties. On the Contract Date, each Party represents and warrants to the other that:

- (a) It is duly organized and validly existing under the laws of the jurisdiction of its incorporation or organization;
- (b) It has the power and authority to enter into this Agreement and to perform its obligations hereunder;
- (c) Its execution and performance do not violate or conflict with applicable law, any provision of its constituent documents, or any contract binding on or affecting it or any of its assets or any order or judgment of any governmental authority applicable to it or its assets;
- (d) All governmental and other authorizations, approvals, consents, notices and filings that are required to have been obtained or submitted by it with respect to entering into and performing this Agreement have been obtained or submitted and are in full force and effect and all conditions thereof have been complied with;
- (e) No Event of Default, as defined in section 4.1 has occurred and is continuing, and none will occur as a result of its entering into or performing this Agreement or the Transaction;
- (f) It is not relying upon any representations of the other Party other than those expressly set forth herein, and it is acting for its own account, and not as agent or in any other capacity, fiduciary or otherwise; and
- (g) It has entered into this Agreement with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks.

3.2 Warranties of Seller.

(a) With respect to the Product, Seller represents and warrants to Buyer that as of the Delivery Date: (i) Seller has good and marketable title to such Product; (ii) all right, title and interest in and to such Product are free and clear of any liens, taxes, claims, security interests or other encumbrances except for any right or interest by any entity claiming through Buyer; and (iii) each REC meets the specifications set forth in the Confirmation Letter.

(b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement



that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC 6: Eligibility)

(c) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC REC-1: Transfer of Renewable Energy Credits)

(d) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. (STC REC-2: Tracking of RECs in WREGIS)

3.3 LIMITATION OF WARRANTIES. ALL OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR WITH RESPECT TO CONFORMITY WITH ANY MODEL OR SAMPLES, ARE DISCLAIMED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY HEREUNDER WITH RESPECT TO ANY FUTURE ACTION OR FAILURE TO ACT OR APPROVAL OR FAILURE TO APPROVE BY ANY GOVERNMENTAL AUTHORITY.

3.4 Indemnity. Each Party will indemnify, defend and hold harmless the other Party from and against any fees or taxes for which such Party is responsible under Section 2.3.

3.5 Survival. Articles 1, 2, 3, 4, and 6 survive expiration or termination hereof.

#### **ARTICLE 4: EVENTS OF DEFAULT; REMEDIES**

4.1 Events of Default. An "Event of Default" means, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant hereto if such failure is not remedied within five (5) business days after receipt of written notice;
- (b) Failure to Deliver or receive Product when due pursuant to the Transaction;
- (c) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when repeated, and is not remedied within ten (10) business days after receipt of written notice;
- (d) Such Party becomes Bankrupt; or

(e) A Party's failure to perform any other material covenant or obligation set forth herein if such failure is not remedied within twenty (20) business days after receipt of written notice.

4.2 Declaration of Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party occurs and is continuing, the other Party (the "Non-Defaulting Party") will have the right to (i) upon no less than 20 business days' written notice to the Defaulting Party terminate this Agreement ("Early Termination Date"), to accelerate all amounts owing between the Parties and to liquidate and terminate the Transaction ("Terminated Transaction") between the Parties, or (ii) withhold any payments due to the Defaulting Party under this Agreement. The Non-Defaulting Party will calculate, in a commercially reasonable manner, a settlement amount in respect of a Terminated Transaction as follows ("Settlement Amount"):

(a) If Buyer is in default and Seller elects Early Termination: Buyer shall pay Seller an amount equal to the sum of (i) the Product Price multiplied by the Product Quantity for any Product Delivered to Buyer for which Seller has not been paid, and (ii) the positive difference, if any, obtained by subtracting the Sales Price for any Product not received from the Product Price for such Product not received multiplied by the amount of Product (in REC units) not received, plus reasonable third party fees (including broker fees) incurred by Seller in enforcement and protection of its rights under this Agreement. "**Sales Price**" means the price per REC, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the Product for the deficiency, or, absent such a sale, the market price per REC for the Product at or during the time that Buyer fails to accept the Product. In determining the market price, Seller may rely on one or more quotes by independent third-party brokerage services; provided, however, that if Seller is unable, despite using commercially reasonable efforts, to effect a resale transaction of all or any part of the Product, the market price thereof shall be deemed to be zero.

(b) If Seller is in default and Buyer elects Early Termination: Seller shall pay Buyer an amount equal to the positive difference, if any, obtained by subtracting the Product Price for any Product not delivered from the Replacement Price for such Product not delivered, multiplied by the amount of Product (in REC units) not delivered, plus reasonable third party fees (including broker fees) incurred by Buyer in enforcement and protection of its rights under this Agreement. "**Replacement Price**" means the price per REC, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute Product for the deficiency, or, absent such a purchase, the market price per REC for the Product at or during the time that Seller fails to deliver the Product. In determining the market price, Buyer may rely on one or more quotes by independent third-party brokerage services; provided, however, that if Buyer is unable, despite using commercially reasonable efforts, to effect a resale transaction of all or any part of the Product, the market price thereof shall be deemed to be zero.

4.3 Liquidated Damages. TO THE EXTENT THAT THE ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE REMEDIES PROVIDED HEREIN AND THE DAMAGES CALCULATED PURSUANT TO THIS ARTICLE REPRESENT A REASONABLE APPROXIMATION OF THE HARM OR LOSS AND NO PORTION THEREOF CONSTITUTES A PENALTY.

4.4 Calculation Disputes. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Settlement Amount, in whole or in part, the Defaulting Party will, within three (3) Business Days of receipt of the Non-Defaulting Party's calculation, provide the Non-Defaulting Party a detailed written explanation of the basis for such dispute, provided, however, the Defaulting Party shall pay the undisputed amount.

4.5 Suspension of Performance. Notwithstanding any other provision hereof, if an Event of Default has occurred and is continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, has the right (i) to suspend performance under any or all Transactions and (ii) to the extent an Event of Default has occurred and is continuing, to exercise any remedy available at law or in equity.



4.6 Limitation of Liability. IN THE EVENT OF A DEFAULT, THE DEFAULTING PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, AND SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY HEREUNDER. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE.

#### **ARTICLE 5: CHANGE IN LAW**

5.1 Change in Law. If a Change in Law occurs, the Parties hereto agree to negotiate in good faith to amend this Agreement to conform to such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement. However, in no event will a Change in Law that changes in any respect the value of the Product, have any effect on the obligations of the Parties to purchase and sell the Product on the terms and at the Product Price set forth in this Agreement. If the Parties are unable, despite such good faith efforts, to reform this Agreement within fifteen (15) business days following commencement of such negotiations, either Party may terminate this Agreement with no further payment or performance obligations except for any such obligations that have accrued prior to such termination.

#### **ARTICLE 6: MISCELLANEOUS**

6.1 Assignment. Neither Buyer nor Seller shall assign this Agreement nor delegate any of its duties hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that either Party, without the consent of the other Party, may assign this Agreement to any of its affiliates provided that such assignee's creditworthiness shall be equal to or greater than that of the assignor; and provided further that Seller may assign this Agreement without the consent of Buyer as collateral security to any lender (and in connection therewith, Buyer shall execute and deliver to such lender a consent agreement in a form reasonably acceptable to Buyer). Any assignment in violation of this Article 6.1 shall be voidable at the sole discretion of the non-assigning Party.

6.2 Notices. All notices, requests, statements or payments will be made as specified in the writing. Notices, unless otherwise specified herein, must be in writing and delivered by hand delivery, mail, overnight courier service or email address set forth in the Notice Contact Schedule attached hereto.

6.3 General.

(a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter. Any prior agreement or negotiation between the Parties with respect to the subject hereof is superseded.

(b) No amendment or modification hereto or to any written Confirmation Letter is enforceable unless in writing and executed by both Parties.

(c) The waiver by either Party of a default or a breach by the other Party will not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either Party with knowledge of the existence of a default or breach will not operate as a waiver of any default or breach.

(d) Except as set forth in Article 5.1, if any provision hereof is, for any reason, determined to be invalid, illegal, or unenforceable in any respect, the Parties will negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions that will, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other

provisions hereof will, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

(e) This Agreement may be executed in counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same original instrument.

6.4 Confidentiality. Neither Party will disclose the terms or conditions this Agreement to a third party (other than the Party's employees, guarantor, lenders, counsel, accountants, agents or advisors who have a need to know such information and have agreed to keep such terms confidential) except:

(a) In order to comply with any applicable law or regulation, or request of any regulatory agency having jurisdiction over the Party and requesting the confidential information in the ordinary course of business; or

(b) In connection with any court or regulatory proceeding;

provided, however; in each case, that such Party may release confidential information, or a portion thereof, to the court, governmental agency or authority, as required by the applicable law, statute, ordinance, decision, order or regulation, provided that such Party has notified the other Party in writing as soon as reasonably practicable, if permitted by law, of the required disclosure, such that the other Party may attempt (if such Party so chooses at its sole cost and expense) to cause that court, governmental agency or authority to treat such information in a confidential manner or to prevent such information from being disclosed or otherwise becoming part of the public domain.

6.5 Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. (STC 17: Applicable Law)

6.6 Dispute Resolution. Any dispute or claim arising out of or related hereto or any breach thereof or any need for interpretation related to any dispute arising out of or related hereto will be settled by binding arbitration administered by the American Arbitration Association, by a panel of three (3) arbitrators, one chosen by each Party. The arbitrators chosen by each Party will select the third arbitrator.

6.7 Force Majeure.

(a) "Force Majeure" means an event or circumstance which materially adversely affects the ability of a Party to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Trade Date and which is not within the reasonable control of, or the result of the negligence of, the Party claiming Force Majeure, and which the claiming Party is unable to overcome or avoid or cause to be avoided, by the exercise of reasonable care. Force Majeure may not be based on (i) the loss or failure of Buyer's markets; (ii) Buyer's inability economically to use or resell the Product; (iii) Seller's ability to sell the Product to another at a price greater than the Product Price; (iv) Buyer's ability to produce the Product; or (v) Buyer's ability to purchase product similar to the Product at a price less than the Product Price. Force Majeure may include a Change in Law. In the case of a Party's obligation to make payments hereunder, Force Majeure will be only an event or act of a governmental authority that on any day disables the banking system through which a Party makes such payments.

(b) If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of the business day following such receipt to notify the claiming Party that it objects to or disputes the existence of an event of Force Majeure.

###



## **NOTICE CONTACT SCHEDULE**

### **("BUYER")**

#### **NOTICES TO:**

Liberty Utilities (CalPeco Electric) LLC  
P.O. Box 107  
701 National Ave.  
Tahoe Vista, California 96148  
Attn: President  
Facsimile: (530)646-1715

#### **WITH A COPY TO:**

Algonquin Power & Utilities Corp.  
354 Davis Road  
Oakville, Ontario L6J 2X1  
Attn: Chief Legal Counsel

## **NOTICE CONTACT SCHEDULE (continued)**

#### **NOTICES TO:**

Fathom Energy LLC  
2925 Richmond Avenue  
Suite #1265  
Houston, Texas 77098  
Attn: Fathom REC Settlements  
Facsimile: (713) 240 – 5504  
Email: Houstonoffice@fathomenergy.us

**Attachment C**

**July 23, 2021 Renewable Energy Credits Purchase and Sale Agreement**



## Renewable Energy Credits Purchase and Sale Agreement

Transaction Date: July 23<sup>rd</sup>, 2021

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### Parties to the Contract

Buyer: Liberty Utilities (CalPeco Electric) LLC  
Address: P.O. Box 107 701 National Ave. Tahoe Vista, California 96148  
Contact: Casey Baker  
Telephone: (530) 721-5364  
Email: Casey.Baker@LibertyUtilities.com

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Seller: GO2 Markets, Inc.  
Address: 11923 Darlington Ave, Los Angeles, CA 90049  
Contact: Jacob Ranta  
Telephone: (323) 452-7392  
Email: jra@go2-markets.com

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### Definitions:

“**CPUC**” means the California Public Utilities Commission.

“**CPUC Approval**” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

- (a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer’s administration of the Agreement; and
- (b) finds that any procurement pursuant to this Agreement is procurement of Renewable Energy Credits that conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation, for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable. (STC REC-3: CPUC Approval)

“**Renewable Energy Credit**” or “**REC**” is defined in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time. A REC is evidenced by a WREGIS Certificate and generally means the Environmental Attributes and Reporting Rights associated with the generation of one (1) megawatt-hour of energy by a renewable energy facility.

“**Environmental Attributes**” means those aspects, claims, characteristics and benefits associated with the generation of a quantity of electricity by a renewable energy facility, including any and all the environmental,





power source and emission characteristics, credits, allowances, emissions reductions, offsets, and benefits, howsoever entitled, attributable to the generation of electricity from such facility and its displacement of generation from non-renewable energy resources, include but are not limited to any avoided emissions of pollutants to the air, soil or water such as sulfur dioxide (Sox), nitrogen oxides (NOx), and carbon monoxide (CO); and further includes any avoided emissions of carbon dioxide (CO<sub>2</sub>) and any other greenhouse gas ("GHG) that contributes to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.

**"Reporting Rights"** means the right to report and register the exclusive ownership of the Environmental Attributes in compliance with federal, state or local law, if applicable, and to a federal or state agency or any other party at the Buyer's discretion, and include without limitation those Reporting Rights accruing under Section 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state or local law, regulation or bill, and international or foreign emissions trading program.

**"STC"** means the standard terms and conditions required by the CPUC for contracts intended to qualify towards the California Renewables Portfolio Standard.

**"WREGIS"** means the Western Renewable Generation Information System or any successor renewable energy tracking program.

**"WREGIS Certificate"** has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules.

**"WREGIS Operating Rules"** means those operating rules and requirements adopted by WREGIS, as amended, supplemented or replaced from time to time.

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### Product

Product for Delivery to the Buyer:	Biomass PCC 3 Compliant REC
Vintage:	2021
Quantity:	25,000

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Purchase Price:	\$4.90/REC
Total Contract Price:	\$122,500.00

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### Transfer

Date of Transfer:	On or Before August 25 <sup>th</sup> , 2021
Modality of transfer:	Transfer of RECs shall occur via the WREGIS tracking system. Seller shall transfer RECs to the Buyer no later than on the Date of Transfer. The Seller will invoice the Buyer for the RECs transferred into the Account after Transfer has been completed and Payment shall be due fifteen (15) Business Day after receipt of an invoice.

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### Payment



Seller will invoice Buyer after Transfer has been completed. Payment by Buyer to Seller shall be due fifteen (15) business days after Buyer's receipt of the invoice. All funds to be paid to the Seller shall be rendered in the form of immediately available funds (US Dollars) by wire transfer or in such other form as agreed to by the Parties. If either Party fails to remit any amount payable by it when due, interest on such unpaid portion shall accrue at a rate equal to the prime interest rate in effect at the time as published in the *Wall Street Journal* plus two percent (2%) from (and including) the date Payment is due to the date of Payment.

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### General Terms and Conditions

**Representation and Warranties of Seller.** Seller represents and warrants to Buyer that as of and at the time of each transfer hereunder:

- i. each REC subject to this agreement meets the specification set forth in this Agreement;
- ii. Seller has good and marketable title to the RECs subject to this Agreement;
- iii. all right, title and interest in and to the RECs subject to this Agreement are free and clear of any liens, taxes claims, security interests, or other encumbrances;
- iv. Seller has not made any claims that the energy associated with the RECs was or will be sold as renewable energy;
- v. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC REC-1: Transfer of Renewable Energy Credits); and
- vi. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. (STC REC-2: Tracking of RECs in WREGIS)

SELLER EXPRESSLY NEGATES AND DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

**Event of Default.** For the purposes of this Agreement, a Party shall be in default (each of the following, an "Event of Default") if:

- i. That Party fails to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business days of written notice from the other Party;
- ii. That Party materially breaches any or all of its material obligations under this Agreement (other than respect to payment) and such breach is not cured within seven (7) business days of written notice of such breach from the other Party;
- iii. Any representation or warranty made by a Party pursuant to this Agreement proves to have been misleading or false in any material respect when made and such party does not cure the underlying facts so as to make such representation and warranty correct and not misleading within seven (7) business days of written notice from the other Party; or
- iv. A Party makes an assignment of all or substantially all of its assets or any general arrangement for the benefit of its creditors (or any of them), files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy



or similar law for the protection of creditors, has a petition filed against it, and such petition is not dismissed within sixty (60) days, or otherwise becomes bankrupt or insolvent, however evidenced.

**Remedies upon Default.** If either Party is in default, the non-defaulting Party may select any or all of the following remedies:

- i. Upon five (5) business days' written notice to the Defaulting Party, terminate this Agreement;
- ii. Withhold any payments and deliveries due in respect of this Agreement; and
- iii. Exercise such other remedies available at law or in equity.

If Buyer is in Default and Seller elects to terminate this Agreement, then Buyer shall pay Seller, within ten (10) business days of invoice receipt, an amount equal to the sum of (i) the Purchase Price multiplied by the quantity for any RECs delivered to Buyer for which Seller has not been paid, and (ii) the positive difference, if any, obtained by subtracting the market price, as reasonably determined by Seller, from the Purchase Price, multiplied by the quantity of RECs not delivered to Buyer, plus reasonable third party fees (including broker fees) and legal costs incurred by Seller in enforcement and protection of its rights under this Agreement.

If Seller is in Default and Buyer elects to terminate this Agreement, then Seller shall pay Buyer, within ten (10) business days of invoice receipt, an amount equal to the positive difference, if any, obtained by subtracting the Purchase Price from the market price, as reasonably determined by Buyer, multiplied by the quantity of RECs not delivered, plus reasonable third party fees (including broker fees) and legal costs incurred by Buyer in enforcement and protection of its rights under this Agreement. In no event does the foregoing relieve Buyer of its obligation under this Agreement to pay Seller the Purchase Price multiplied by the quantity for any RECs delivered to Buyer for which Seller has not been paid.

**Force Majeure.** If either Party is rendered unable, wholly or in part, by Force Majeure (as defined below) to carry out its obligations under this Agreement, then upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of the third (3<sup>rd</sup>) business day following such receipt to notify the claiming Party that it objects to or disputes the existence of an event of Force Majeure. The claiming Party will cooperate fully with the receiving Party in its endeavors to assess the particulars of the Force Majeure claimed.

"Force Majeure" means an event or circumstance which prevent a party from performing its obligations under this Agreement, which event or circumstance was not reasonably anticipated prior to the occurrence of such event or circumstance and which is not within the reasonable control of, or the result of the negligence of, the Party claiming Force Majeure, and which the claiming Party is unable to overcome or avoid or cause to be avoided, by the exercise of reasonable care. Force Majeure events include, but are not limited to, acts of God, acts of the public enemy, acts of terror, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, tornadoes, fires, storms, floods, explosions, sabotage, or disasters. Force Majeure may not be based on (i) the loss or failure of Buyer's markets; (ii) Buyer's inability economically to pay for, use or resell the Product; (iii) Seller's ability to sell the Product to another at a price greater than the Purchase Price; (iv) Buyer's ability to purchase products similar to the Product at a price less than the Purchase Price. In the case of a Party's obligation to make payments hereunder, Force Majeure will be only an event that on any day disables the banking system through which that Party has to make such Payment.

**Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF



ANY NATURE WHATSOEVER, INCLUDING LOSS OF PROFIT (EXCEPT TO THE EXTENT THAT ANY DIRECT DAMAGES INCLUDE AN ELEMENT OF PROFIT).

**Confidentiality.** The Parties agree to keep confidential the contents of this Agreement and any information made available by one Party to the other Party with respect to this Agreement, unless disclosure of such information is required by law, rule or regulation, including reports to the Federal Energy Regulatory Commission, North American Electric Reliability Corporation, CPUC, WREGIS, California Energy Commission, or similar or successor organizations.

**Indemnification.** Without limiting any of the provisions set forth in this Section titled "Limitation of Liability", each party (the "Indemnifying Party") shall indemnify and hold harmless the other Party, its shareholders, officers, directors, employees and agents (collectively, the "Indemnified Party"), from and against any and all third-party claims, costs, suits, liabilities, damages, losses, demands and expenses of every kind including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising out of: (i) a material default by the Indemnifying Party of any covenant or agreement in this Agreement; or (ii) the negligence or willful misconduct by the Indemnifying Party.

**Notices.** All notices, demands and other communications hereunder shall be effective only if given in writing and shall be deemed given (i) when delivered in person; (ii) when delivered by private courier (with confirmation of delivery); (iii) by email or (iv) five (5) Business Days after being deposited in the United States mail, first-class, registered or certified, return receipt requested, with postage paid. For purposes hereof, all notices, demands and other communications shall be sent to the contact and addresses above (or to such other address furnished in writing by one Party to the other Party).

**Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may transfer or assign this Agreement, in whole or in part, without the other Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

**Amendment.** This Agreement may be amended at any time by written agreement signed by both Parties.

**No Waiver.** No delay or omission by a Party in the exercise of any right under this Agreement shall be taken, construed or considered as a waiver or relinquishment thereof. If any of the terms and conditions herein are breached and thereafter waived in writing by a Party, such waiver is limited to the particular breach so waived and is not deemed to waive any other breach hereunder.

**Severability.** If any provision or portion of this Agreement is found to be unenforceable, the remained shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the Parties as expressed herein.

**Complete Agreement.** This Agreement represents the Parties' final and mutual understanding concerning its subject matter. It replaces and supersedes any prior agreements or understandings regarding such subject matter, whether written or oral.

**Governing Law.** This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. (STC 17: Applicable Law)



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**Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument. Facsimile or PDF transmission of any signed original document and retransmission of any facsimile or PDF transmission will be the same as delivery of any original document.

**Forward Contract.** This Agreement constitutes a “forward contract” and each Party represent and warrants that it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code. This Agreement also constitutes a sale of a nonfinancial commodity for deferred shipment or delivery that the Parties intend to be physically settled and is excluded for the term “swap” as defined in the Commodity Exchange Act under 7 U.S.C. §1a (47) and Commodities Future Trading Commission and Securities Exchange Commission regulations under Title 17 of the Code of Federal Regulations Part. 1 and Title 17 of the Code of Federal Regulations Parts 230, 240 and 241, respectively.

By signing the below, the Parties agree to be bound by the terms and conditions contained in this Agreement, as of the date hereabove.

**For the Seller**

Name: Jacob Ranta

Title: Manager, US Markets

Date: August 23, 2021

A handwritten signature in black ink, appearing to read 'JR'.

**For the Buyer**

Name: Chris Alario

Title: President, California

Date: Aug 19, 2021

A handwritten signature in blue ink, appearing to read 'CAM'.  
Chris Alario (Aug 19, 2021 14:55 PDT)

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**Amendment to the Renewable Energy Credits Purchase and Sale Agreement between Liberty Utilities LLC and GO2 Markets Inc. dated July 23<sup>rd</sup>, 2021**

Effective Date: October 4<sup>th</sup>, 2021

Liberty Utilities, as the Buyer, and GO2 Markets, as the Seller, have agreed to the following Amendment to the Renewable Energy Credits Purchase and Sale Agreement between them dated July 23<sup>rd</sup>, 2021.

The Parties agreed to modify the terms and conditions established in the Agreement by adding the following Clause:

STC 6: Eligibility

Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

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This Amendment shall come into force on its Effective Date. All the clauses of the referred Agreement that have not been altered or modified by this Amendment shall remain unchanged and in full force.

The Parties signify their agreement to the terms of this Amendment and their intention to be bound by the contents of it by signing below.

Reviewed by: Casey Baker  
Casey Baker (Oct 6, 2021 08:02 PDT)

**For the Seller**

Name: Jacob Ranta

Title: Manager, US Markets

Date: October 15, 2021

Chris Alario

Chris Alario (Oct 6, 2021 10:15 PDT)

**For the Buyer**

Name: Chris Alario

Title: President, California

Date: Oct 6, 2021

**Attachment D**

**April 27, 2022 Renewable Energy Credit Purchase and Sale Agreement**

# RENEWABLE ENERGY CREDIT PURCHASE AND SALE AGREEMENT

Between

Liberty Utilities (CalPeco Electric) LLC

(as “Buyer”)

and

GO2-Markets Inc.

(as “Seller”)



# RENEWABLE ENERGY CREDIT PURCHASE AND SALE AGREEMENT

This Renewable Energy Credit Purchase and Sale Agreement ("Agreement"), entered into on this \_\_\_\_\_ day of \_\_\_\_\_ ("Contract Date"), confirms the terms and conditions of the renewable energy credit transaction between GO2-Markets Inc. ("Seller") and Liberty Utilities (CalPeco Electric) LLC ("Buyer").

Seller and Buyer are each referred to as a "Party" and, collectively, as the "Parties." This Agreement shall constitute the entire agreement between the Parties related to the subject matter hereof and supersedes and replaces any prior oral or written confirmation, including broker confirmations. Capitalized terms used but not otherwise defined in this Agreement have the meanings ascribed to them in the RPS (as defined below).

## ARTICLE 1 COMMERCIAL TERMS

<b>Seller:</b>	GO2-Markets Inc.	<b>Buyer:</b>	Liberty Utilities (CalPeco Electric) LLC
<b>Main Contact (Name and Phone):</b>	Jacob Ranta +1 (323) 452 7392	<b>Main Contact (Name and Phone):</b>	Casey Baker (530) 721-5364
<b>Notices (email):</b>	jra@go2-markets.com	<b>Notices (email):</b>	Casey.Baker@LibertyUtilities.com
<b>Invoices/Payments:</b>	invoices@go2-markets.com	<b>Invoices/Payments:</b>	LUWestAP@libertyutilities.com
<b>Product:</b>	All California RPS-eligible RECs associated with the Contract Quantity and from the Project(s) for the applicable Product Vintage.		
<b>Contract Quantity:</b>	752 RECs.		
<b>Contract Price:</b>	\$4.90 per REC. Total Cost: \$3,684.00		
<b>Product Vintage:</b>	2021		
<b>Project:</b>	Name of Facility: Klondike Wind Power III Location: Sherman County, Oregon EIA Number: 56468 CEC RPS ID: 60602 WREGIS ID: W237 Certification Date: 07/09/2008 Commercial Operation Date: 11/01/2007		
<b>Term:</b>	The Term of this Agreement shall commence upon the Contract Date and shall continue until the later of (i) the expiration of the Delivery Period and (ii) the satisfaction of all obligations of the Parties under this Agreement.		
<b>Delivery Period:</b>	The Delivery Period shall commence on the Contract Date and shall continue until delivery by Seller to Buyer of the Product has been completed, but no later than May 1, [year after Product Vintage].		
<b>Delivery Point:</b>	Buyer's WREGIS account: Liberty Utilities (CalPeco Electric) LLC Account ID: 719		

## ARTICLE 2

### DEFINITIONS

- 1.1 **“Bankrupt”** means an entity that has (i) filed a petition or otherwise commenced, authorized or acquiesced in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, (ii) had any such petition filed or commenced against it and not dismissed within 30 days, (iii) made an assignment or any general arrangement for the benefit of creditors, (iv) otherwise become bankrupt or insolvent, however evidenced, (v) had a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (vi) become generally unable to pay its debt when due.
- 1.2 **“California Renewables Portfolio Standard”** means the renewable energy program and policies codified in California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as interpreted and implemented by the CPUC and CEC, as such provisions are amended or supplemented from time to time.
- 1.3 **“CEC”** means the California Energy Commission or any successor entity.
- 1.4 **“Condition(s) Precedent”** has the meaning set forth in Section 2.1.
- 1.5 **“CPUC”** means the California Public Utilities Commission or any successor entity.
- 1.6 **“CPUC Approval”** means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:
- (a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer’s administration of the Agreement; and
  - (b) finds that any procurement pursuant to this Agreement is procurement of Renewable Energy Credits that conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation, for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.
- CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.  
(STC REC-3: CPUC Approval)
- 1.7 **“Delivered” or “Delivery” or “Deliver”** means the transfer from Seller to Buyer of the Contract Quantity of the Product in accordance with the California RPS Program, including its regulations and

procedures, necessary for recognition by WREGIS of the transfer to Buyer, or Seller's delivery to Buyer of a WREGIS Certificate.

- 1.8 **"Environmental Attributes"** means those aspects, claims, characteristics and benefits associated with the generation of a quantity of electricity by a renewable energy facility, including any and all the environmental, power source and emission characteristics, credits, allowances, emissions reductions, offsets, and benefits, howsoever entitled, attributable to the generation of electricity from such facility and its displacement of generation from non-renewable energy resources, include but are not limited to any avoided emissions of pollutants to the air, soil or water such as sulfur dioxide (Sox), nitrogen oxides (Nox), and carbon monoxide (CO); and further includes any avoided emissions of carbon dioxide (CO<sub>2</sub>) and any other greenhouse gas ("GHG") that contributes to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.
- 1.9 **"Governmental Authority"** means any federal, state, local, or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory, or administrative body, having jurisdiction as to the matter in question.
- 1.10 **"Law"** means any statute, treaty, rule, regulation, CEC guidance document, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree, or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Contract Date, and which becomes effective after the Contract Date; or any binding interpretation of the foregoing. For purposes of Sections 1.6 "CPUC Approval", 5.2 "Warranties of Seller", 8.5 "Governing Law", the term "law" shall have the meaning set forth in this definition.
- 1.11 **"Renewable Energy Credit" or "REC"** is defined in California Public Utilities Code Section 399.12(h) and CPUC Decisions 08-08-028, 10-03-021, and 11-01-025, as may be amended from time to time. A REC is evidenced by a WREGIS Certificate and generally means the Environmental Attributes and Reporting Rights associated with the generation of one (1) megawatt-hour of energy by a renewable energy facility.
- 1.12 **"Reporting Rights"** means the right to report and register the exclusive ownership of the Environmental Attributes in compliance with federal, state or local Law, if applicable, and to a federal or state agency or any other party at the Buyer's discretion, and include without limitation those Reporting Rights accruing under Section 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state or local Law, regulation or bill, and international or foreign emissions trading program.
- 1.13 **"Reporting Year"** means a twelve-month compliance period specified under WREGIS.

- 1.14     **“STC”** means the standard terms and conditions required by the CPUC for contracts intended to qualify towards the California Renewables Portfolio Standard.
- 1.15     **“Vintage”** means the calendar year, Reporting Year or other period specified by the Parties or WREGIS in which the Product is created or first valid for use under the RPS.
- 1.16     **“WREGIS”** means the Western Renewable Generation Information System or any successor renewable energy tracking program.
- 1.17     **“WREGIS Certificate”** has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules.
- 1.18     **“WREGIS Operating Rules”** means those operating rules and requirements adopted by WREGIS, as amended, supplemented, or replaced from time to time.

## ARTICLE 3

### CONDITIONS PRECEDENT

**2.1 Conditions Precedent.** The Term shall not commence until the occurrence of all of the following:

- (a) this Agreement has been duly executed by the authorized representatives of each of Buyer and Seller;
- (b) CPUC Approval has been obtained; and
- (c) Buyer receives a final and non-appealable order of the CPUC that finds that Buyer's entry into this Agreement is reasonable and that payments to be made by Buyer hereunder are recoverable in rates.

Buyer has no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modification unacceptable to either Party.

**2.2 Failure to Meet All Conditions Precedent.** If the Conditions Precedent set forth in Section 2.1 are not satisfied or waived in writing by Buyer on or before two hundred forty (240) days from the date on which Buyer files this Agreement for CPUC Approval, then either Party may terminate this Agreement effective upon receipt of notice by the other Party. Neither Party shall have any obligation or liability to the other, including for a Termination Payment or otherwise, by reason of such termination.

## ARTICLE 4

### PAYMENT, TAXES AND TRANSFER OF TITLE

**4.1 Payment.** Seller shall deliver an invoice to Buyer reflecting the Contract Price multiplied by the Contract Quantity Delivered following Seller's Delivery of the Product ("Invoice"). The Invoice may be furnished to Buyer by email or otherwise in writing. Within ten (10) business days of the later of (a) Buyer's receipt of the Invoice and (b) Buyer's receipt of confirmation that the Product have been Delivered to Buyer's WREGIS account, Buyer shall pay Seller for the Product so Delivered. All payments made under this Agreement shall be made in immediately available United States Dollars by electronic transfer.

**4.2 Taxes and Fees.** Seller will be responsible for any taxes imposed on the creation, ownership, or transfer of Product under this Agreement up to and including the time and place of Delivery. Buyer will be responsible for any taxes imposed on the receipt or ownership of Product at or after the time and place of Delivery. Each Party will be responsible for the payment of any fees, including brokers' fees, incurred by it in connection with this Agreement.

**4.3 Transfer of Title.** Seller's property rights, title, and interest in and to the Product will pass to Buyer when the Delivery and payment set forth above are complete. Upon such completion, all rights, title, and interest in and to the Product, to the full extent the same is property, will transfer to Buyer. To the extent that any Product has not yet been generated, Seller agrees to promptly make and Buyer agrees to accept actual Delivery of the Product.

## ARTICLE 5

### REPRESENTATIONS AND WARRANTIES

**5.1 Mutual Representations and Warranties.** On the Contract Date, each Party represents and warrants to the other that:

- (a) It is duly organized and validly existing under the Laws of the jurisdiction of its incorporation or organization;
- (b) It has the power and authority to enter into this Agreement and to perform its obligations hereunder;
- (c) Its execution and performance do not violate or conflict with applicable Law, any provision of its constituent documents, or any contract binding on or affecting it or any of its assets or any order or judgment of any governmental authority applicable to it or its assets;
- (d) All governmental and other authorizations, approvals, consents, notices and filings that are required to have been obtained or submitted by it with respect to entering into and performing this Agreement have been obtained or submitted and are in full force and effect and all conditions thereof have been complied with;
- (e) No Event of Default, as defined in section 6.1 has occurred and is continuing, and none will occur as a result of its entering into or performing this Agreement;
- (f) It is not relying upon any representations of the other Party other than those expressly set forth herein, and it is acting for its own account, and not as agent or in any other capacity, fiduciary or otherwise; and
- (g) It has entered into this Agreement with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks.

**5.2 Warranties of Seller.**

- (a) With respect to the Product, Seller represents and warrants to Buyer that over the Delivery Period: (i) Seller has good and marketable title to such Product; (ii) all right, title and interest in and to such Product are free and clear of any liens, taxes, claims, security interests or other encumbrances except for any right or interest by any entity claiming through Buyer; and (iii) each REC meets the specifications set forth in the Agreement.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC 6: Eligibility)
- (c) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to

be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. (STC REC-1: Transfer of Renewable Energy Credits)

(d) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. (STC REC-2: Tracking of RECs in WREGIS)

For the avoidance of doubt, the term “contract” as used in the immediately preceding paragraph means this Agreement.

(e) Seller warrants that the RECs delivered will be of vintage no older than 34-months from the date of generation.

(f) Seller warrants that the Contract Quantity of the Product transferred by Seller hereunder shall be designated California RPS-compliant with WREGIS.

(g) During the Term, Seller, at its own cost and expense, shall use commercially reasonable efforts to ensure that the Contract Quantity of the Product transferred to Buyer under this Agreement count towards Buyer’s RPS requirements.

(h) Seller shall, at its sole expense, use WREGIS as required pursuant to the WREGIS Operating Rules to effectuate the transfer of the Contract Quantity of the Product to Buyer in accordance with WREGIS reporting protocols and WREGIS Operating Rules.

(i) Seller shall use commercially reasonable efforts to support Buyer in obtaining CPUC Approval.

**5.3 LIMITATION OF WARRANTIES.** ALL OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR WITH RESPECT TO CONFORMITY WITH ANY MODEL OR SAMPLES, ARE DISCLAIMED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY HEREUNDER WITH RESPECT TO ANY FUTURE ACTION OR FAILURE TO ACT OR APPROVAL OR FAILURE TO APPROVE BY ANY GOVERNMENTAL AUTHORITY.

#### **5.4 Indemnity.**

(a) **Indemnity by Seller.** Seller shall release, indemnify and hold harmless Buyer, its Affiliates, and Buyer’s and its Affiliates’ respective directors, officers, employees, agents, and representatives against and from any and all loss, claims, actions or suits, including costs and attorney’s fees resulting from, or arising out of or in any way connected with (i) the Product Delivered under this Agreement, (ii) Seller’s development, operation and/or maintenance of the Project, or (iii) Seller’s actions or inactions with respect to this Agreement, including, without limitation, any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Buyer, its Affiliates, or Buyer’s and Affiliates’ respective agents, employees, directors, or officers.

(b) **Indemnity by Buyer.** Buyer shall release, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all loss, claims, actions or suits, including costs and attorney’s fees resulting from, or arising out of or in any way connected with the Product Delivered by Seller under this Agreement after receipt thereof by Buyer into Buyer’s WREGIS Account, including,

without limitation, any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Seller, its Affiliates, or Seller's and Affiliates' respective agents, employees, directors or officers.

**5.5 Survival.** Notwithstanding anything to the contrary in this Agreement, all rights under Section 5.4 (Indemnity) and any other indemnity rights shall survive the end of the Term for an additional twelve (12) months, and all rights and obligations under Section 8.4 (Confidentiality) shall survive the end of the Term for an additional two (2) years.



## ARTICLE 6

### EVENTS OF DEFAULT; REMEDIES

**6.1 Events of Default.** An “Event of Default” means, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant hereto if such failure is not remedied within five (5) business days after receipt of written notice;
- (b) Failure to Deliver or receive Product when due pursuant to the Agreement and such failure is not remedied within five (5) business days after notice of the Non-Defaulting Party;
- (c) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when repeated, and is not remedied within ten (10) business days after receipt of written notice;
- (d) Such Party becomes Bankrupt; or
- (e) A Party’s failure to perform any other material covenant or obligation set forth herein if such failure is not remedied within twenty (20) business days after receipt of written notice.

**6.2 Declaration of Early Termination Date and Calculation of Settlement Amounts.** If an Event of Default with respect to a Defaulting Party occurs and is continuing, the other Party (the “Non-Defaulting Party”) will have the right to (i) upon no less than twenty (20) business days’ written notice to the Defaulting Party terminate this Agreement (“Early Termination Date”), to accelerate all amounts owing between the Parties and to liquidate and terminate the Agreement (“Terminated Agreement”) between the Parties, or (ii) withhold any payments due to the Defaulting Party under this Agreement. The Non-Defaulting Party will calculate, in a commercially reasonable manner, a settlement amount in respect of a Terminated Agreement as follows (“Settlement Amount”):

- (a) If Buyer is in default and Seller elects Early Termination: Buyer shall pay Seller an amount equal to the sum of (i) the Contract Price multiplied by the quantity of any Product Delivered to Buyer for which Seller has not been paid, and (ii) the positive difference, if any, obtained by subtracting the Sales Price for any Product not received from the Contract Price for such Product not received multiplied by the amount of Product (in REC units) not received, plus reasonable third party fees (including broker fees) incurred by Seller in enforcement and protection of its rights under this Agreement. **“Sales Price”** means the price per REC, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the Product for the deficiency, or, absent such a sale, the market price per REC for the Product at or during the time that Buyer fails to accept the Product. In determining the market price, Seller may rely on one or more quotes by independent third-party brokerage services; provided, however, that if Seller is unable, despite using commercially reasonable efforts, to effect a resale transaction of all or any part of the Product, the market price thereof shall be deemed to be zero.
- (b) If Seller is in default and Buyer elects Early Termination: Seller shall pay Buyer (i) an amount equal to the positive difference, if any, obtained by subtracting the Contract Price for any Product not delivered from the Replacement Price for such Product not delivered, multiplied by the amount of Product (in REC units) not delivered, plus (ii) reasonable third party fees (including broker fees) incurred by Buyer in enforcement and protection of its rights under this Agreement. **“Replacement Price”** means the price per REC, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute Product for the deficiency, or, absent such a purchase, the market price per REC for the Product at or during the time that Seller fails to deliver the Product. In determining the market price, Buyer may rely on one or more quotes by independent third-party brokerage services; provided, however, that if Buyer is unable, despite

using commercially reasonable efforts, to effect a resale transaction of all or any part of the Product, the market price thereof shall be deemed to be zero.

**6.3 Liquidated Damages.** TO THE EXTENT THAT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE REMEDIES PROVIDED HEREIN AND THE DAMAGES CALCULATED PURSUANT TO THIS ARTICLE REPRESENT A REASONABLE APPROXIMATION OF THE HARM OR LOSS AND NO PORTION THEREOF CONSTITUTES A PENALTY.

**6.4 Calculation Disputes.** If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Settlement Amount, in whole or in part, the Defaulting Party will, within three (3) Business Days of receipt of the Non-Defaulting Party's calculation, provide the Non-Defaulting Party a detailed written explanation of the basis for such dispute, provided, however, the Defaulting Party shall pay the undisputed amount.

**6.5 Suspension of Performance.** Notwithstanding any other provision hereof, if an Event of Default has occurred and is continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, has the right (i) to suspend performance under the Agreement and (ii) to the extent an Event of Default has occurred and is continuing, to exercise any remedy available at Law or in equity.

**6.6 Limitation of Liability.** IN THE EVENT OF A DEFAULT, THE DEFAULTING PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, AND SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY HEREUNDER. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE.

## ARTICLE 7

### CHANGE IN LAW

**7.1 Change in Law.** If a change in Law occurs, the Parties hereto agree to negotiate in good faith to amend this Agreement to conform to such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement. However, in no event will a change in Law that changes in any respect the value of the Product have any effect on the obligations of the Parties to purchase and sell the Product on the terms and at the Contract Price set forth in this Agreement. If the Parties are unable, despite such good faith efforts, to reform this Agreement within fifteen (15) business days following commencement of such negotiations (or longer period should the Parties mutually agree), either Party may terminate this Agreement with no further payment or performance obligations except for any such obligations that have accrued prior to such termination.

## ARTICLE 8

### MISCELLANEOUS

**8.1 Assignment.** Neither Buyer nor Seller shall assign this Agreement nor delegate any of its duties hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that either Party, without the consent of the other Party, may assign this Agreement to any of its affiliates provided that such assignee's creditworthiness shall be equal to or greater than that of the assignor. Any assignment in violation of this Article 8.1 shall be voidable at the sole discretion of the non-assigning Party.

**8.2 Notices.** All notices, requests, statements, or payments will be made as specified in the writing. Notices, unless otherwise specified herein, must be in writing and delivered by hand delivery, mail, overnight courier service or email address set forth in the Contact Information section of Article 1.

**8.3 General.**

(a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter. Any prior agreement or negotiation between the Parties with respect to the subject hereof is superseded.

(b) No amendment or modification hereto is enforceable unless in writing and executed by both Parties.

(c) The waiver by either Party of a default or a breach by the other Party will not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either Party with knowledge of the existence of a default or breach will not operate as a waiver of any default or breach.

(d) Except as set forth in Article 7.1, if any provision hereof is, for any reason, determined to be invalid, illegal, or unenforceable in any respect, the Parties will negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions that will, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions hereof will, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

(e) This Agreement may be executed in counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same original instrument.

**8.4 Confidentiality.**

(a) Neither Party shall disclose the non-public terms or conditions of this Agreement or any transaction hereunder to a third party, other than (i) the Party's Affiliates and its and their officers, directors, employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential, (ii) for disclosure to the Buyer's Procurement Review Group, as defined in CPUC Decision (D) 02-08-071, subject to a confidentiality agreement, (iii) to the CPUC under seal for purposes of review, (iv) disclosure of terms specified in and pursuant to Section 8.4(b) of this Agreement; (v) in order to comply with any applicable Law, regulation, or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over the disclosing Party ("Disclosing Party"), other than to those entities set forth in subsection (vi); or (vi) in order to comply with any applicable regulation, rule, or order of the CPUC, CEC, or the Federal Energy Regulatory Commission. In connection with requests made pursuant to clause (v) of this Section 8.4(a) ("Disclosure Order")

each Party shall, to the extent practicable, use reasonable efforts to prevent or limit such disclosure. After using such reasonable efforts, the Disclosing Party shall not be: (i) prohibited from complying with a Disclosure Order or (ii) liable to the other Party for monetary or other damages incurred in connection with the disclosure of the confidential information. Except as provided in the preceding sentence, the Parties shall be entitled to all remedies available at Law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

- (b) Notwithstanding Section 8.4(a) of this Agreement, at any time on or after the date on which the Buyer makes its filing seeking CPUC Approval of this Agreement, either Party shall be permitted to publicly disclose the those terms as required by the CPUC with respect to this Agreement, including but not limited to: Party names, resource type, Delivery Period, Project location, Contract Quantity, and Delivery Point.

**8.5 Governing Law.** This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. (STC 17: Applicable Law)

**8.6 Dispute Resolution.** Any dispute or claim arising out of or related hereto or any breach thereof or any need for interpretation related to any dispute arising out of or related hereto will be settled by binding arbitration administered by the American Arbitration Association, by a panel of three (3) arbitrators, one chosen by each Party. The arbitrators chosen by each Party will select the third arbitrator.

**8.7 Force Majeure.**

(a) "Force Majeure" means an event or circumstance which materially adversely affects the ability of a Party to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Trade Date and which is not within the reasonable control of, or the result of the negligence of, the Party claiming Force Majeure, and which the claiming Party is unable to overcome or avoid or cause to be avoided, by the exercise of reasonable care. Force Majeure may not be based on (i) the loss or failure of Buyer's markets; (ii) Buyer's inability economically to use or resell the Product; (iii) Seller's ability to sell the Product to another at a price greater than the Contract Price; (iv) Buyer's ability to produce the Product; or (v) Buyer's ability to purchase product similar to the Product at a price less than the Contract Price.

(b) If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, upon such Party's giving notice and full particulars of such Force Majeure as soon as reasonably possible after the occurrence of the cause relied upon, such notice to be confirmed in writing to the other Party, the obligations of the claiming Party will, to the extent they are affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the claiming Party will not be liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure. The Party receiving such notice of Force Majeure will have until the end of the business day following such receipt to notify the claiming Party that it objects to or disputes the existence of an event of Force Majeure.

## SIGNATURES

In WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the dates provided below:

GO2-Markets Inc., a Delaware corporation

Signature: \_\_\_\_\_

Name: Jacob Ranta

Title: Director, US Clean Energy Solutions

Date: 4/27/22

Liberty Utilities (CalPeco Electric) LLC, a California corporation

Signature: \_\_\_\_\_  
Edward Jackson (Apr 26, 2022 18:14 PDT)

Name: Edward Jackson

Title: President, California

Date: Apr 26, 2022





# ADVICE LETTER SUMMARY

## ENERGY UTILITY



MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No.: Liberty Utilities (CalPeco Electric) LLC (U-933-E)

Utility type:

☒ ELC ☐ GAS ☐ WATER  
☐ PLC ☐ HEAT

Contact Person: Cindy Fisher

Phone #: 530-721-5191

E-mail: Cindy.Fisher@libertyutilities.com

E-mail Disposition Notice to: AnnMarie.Sanchez@libertyutilities.com

### EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas      WATER = Water  
PLC = Pipeline      HEAT = Heat

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 191-E

Tier Designation: 1

Subject of AL: Notification of Purchase of Renewable Energy Credits

Keywords (choose from CPUC listing): Agreements, Contracts

AL Type: ☐ Monthly ☐ Quarterly ☐ Annual ☒ One-Time ☐ Other:

If AL submitted in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL:

Confidential treatment requested? ☐ Yes ☒ No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? ☐ Yes ☒ No

Requested effective date: 4/29/22

No. of tariff sheets: 0

Estimated system annual revenue effect (%): n/a

Estimated system average rate effect (%): n/a

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: n/a

Service affected and changes proposed<sup>1</sup>:

Pending advice letters that revise the same tariff sheets:

<sup>1</sup>Discuss in AL if more space is needed.

**Protests and all other correspondence regarding this AL are due no later than 20 days after the date of this submittal, unless otherwise authorized by the Commission, and shall be sent to:**

CPUC, Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

Name: Cindy Fisher  
Title: Manager, Rates and Regulatory Affairs  
Utility Name: Liberty Utilities (CalPeco Electric) LLC  
Address: 9750 Washburn Road  
City: Downey State: California  
Telephone (xxx) xxx-xxxx: 530-721-5191  
Facsimile (xxx) xxx-xxxx:  
Email: [Cindy.Fisher@libertyutilities.com](mailto:Cindy.Fisher@libertyutilities.com)

Name: AnnMarie Sanchez  
Title: Coordinator  
Utility Name: Liberty Utilities (California)  
Address: 9750 Washburn Road  
City: Downey State: California  
Telephone (xxx) xxx-xxxx: 562-805-2052  
Facsimile (xxx) xxx-xxxx:  
Email: [AnnMarie.Sanchez@libertyutilities.com](mailto:AnnMarie.Sanchez@libertyutilities.com)

Clear Form

## ENERGY Advice Letter Keywords

Affiliate	Direct Access	Preliminary Statement
Agreements	Disconnect Service	Procurement
Agriculture	ECAC / Energy Cost Adjustment	Qualifying Facility
Avoided Cost	EOR / Enhanced Oil Recovery	Rebates
Balancing Account	Energy Charge	Refunds
Baseline	Energy Efficiency	Reliability
Bilingual	Establish Service	Re-MAT/Bio-MAT
Billings	Expand Service Area	Revenue Allocation
Bioenergy	Forms	Rule 21
Brokerage Fees	Franchise Fee / User Tax	Rules
CARE	G.O. 131-D	Section 851
CPUC Reimbursement Fee	GRC / General Rate Case	Self Generation
Capacity	Hazardous Waste	Service Area Map
Cogeneration	Increase Rates	Service Outage
Compliance	Interruptible Service	Solar
Conditions of Service	Interutility Transportation	Standby Service
Connection	LIEE / Low-Income Energy Efficiency	Storage
Conservation	LIRA / Low-Income Ratepayer Assistance	Street Lights
Consolidate Tariffs	Late Payment Charge	Surcharges
Contracts	Line Extensions	Tariffs
Core	Memorandum Account	Taxes
Credit	Metered Energy Efficiency	Text Changes
Curtailable Service	Metering	Transformer
Customer Charge	Mobile Home Parks	Transition Cost
Customer Owned Generation	Name Change	Transmission Lines
Decrease Rates	Non-Core	Transportation Electrification
Demand Charge	Non-firm Service Contracts	Transportation Rates
Demand Side Fund	Nuclear	Undergrounding
Demand Side Management	Oil Pipelines	Voltage Discount
Demand Side Response	PBR / Performance Based Ratemaking	Wind Power
Deposits	Portfolio	Withdrawal of Service
Depreciation	Power Lines	