



414 Nicollet Mall  
Minneapolis, MN 55401

**PUBLIC DOCUMENT –  
NOT PUBLIC DATA HAS BEEN EXCISED**

June 30, 2017

**—Via Electronic Filing—**

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

RE: PETITION FOR APPROVAL TO SELL LAND AND TANKS TO FLINT HILLS  
RESOURCES PINE BEND, LLC  
DOCKET NO. E002/M-17-\_\_\_\_\_

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission this Petition for approval of an Asset Purchase Agreement between the Company and Flint Hills Resources Pine Bend, LLC.

In addition to this filing, we are also making four related but separate filings today in other dockets. The overall goal of all of these filings is the same: to lower customer costs while continuing to provide safe, reliable service. If approved by the Commission, these initiatives together will achieve over \$531 million in total cost savings (nominally) for our customers over the next 10 years. We believe there are more opportunities to further reduce customer costs and will continue to evaluate other potential transactions and may come forward with additional cost-saving proposals in the future.

The Company acknowledges that bringing forward five separate petitions increases the workload for the Department of Commerce and Commission Staff. We believe it was important to pursue these transactions separately because each transaction has its own unique sets of facts and circumstances. With that being said, we look forward to working with the Department and Commission Staff on developing a schedule that is responsive to any concerns they may have.

This Petition includes information the Company considers to be trade secret data as defined by Minn. Stat. § 13.37(1)(b). The information derives independent economic value from not being generally known or readily ascertainable by others who could obtain a financial advantage from its use. Thus, Xcel Energy considers this non-public data.

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service list. Please contact Bria Shea at [bria.e.shea@xcelenergy.com](mailto:bria.e.shea@xcelenergy.com) or (612) 330-6064 if you have any questions regarding this filing.

Sincerely,

/s/

AAKASH H. CHANDARANA  
REGIONAL VICE PRESIDENT  
RATES AND REGULATORY AFFAIRS

Enclosures  
c: Service List

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

IN THE MATTER THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL TO SELL LAND AND  
TANKS TO FLINT HILLS RESOURCES PINE  
BEND, LLC

DOCKET NO. E002/M-17-\_\_\_\_\_

**PETITION**

**INTRODUCTION**

Northern States Power Company, doing business as Xcel Energy, submits to the Minnesota Public Utilities Commission this Petition for approval to sell three storage tanks, the inventory of fuel oil, and the related facilities, and property to Flint Hills Resources Pine Bend, LLC (Flint Hills).

In summary, there are three components to this overall transaction - the sale of the tanks, the sale of the fuel, and the Fuel Supply Agreement. As it pertains to the sale of the tanks, the Company will sell three fuel storage tanks and associated equipment to Flint Hills. Flint Hills sees a unique business opportunity with these assets and has agreed to pay \$2.6 million for the tanks, which have a net book value (NBV) of \$1 million. Flint Hills will also make the investments necessary to improve the tanks.

With regards to the fuel sale, one of the tanks currently contains fuel. Flint Hills has agreed to purchase the fuel in the tank at current market prices, which is approximately \$2 million. This price is \$500,000 less than the price the Company purchased the fuel, due to the change in market pricing from the time when we bought the fuel versus the estimated price at the time we will sell the fuel.

The last piece of the transaction is the Fuel Supply Agreement which provides that Flint Hills will continue supporting our Inver Hills plant's black start capability, which is the only function needed for the tanks to serve our customers. This Fuel Supply Agreement allows us to maintain our generation fleet needs while avoiding making unnecessary investments in nearly fully depreciated assets. The Fuel Supply

Agreement provides a cost savings to customers of \$1.8 million over the remaining life of the assets.

Due to the interdependency of the tanks and the fuel, it is necessary to look at this proposed transaction in its entirety--- the sale of the tanks, the sale of the fuel, and the Fuel Supply Agreement. That is, there are costs and benefits for each component but when looking at the entire package, there are significant customer benefits and they would not exist but for the other transaction components.

The sale price for the fuel storage tanks, associated equipment, real property, and fuel is approximately \$7.3 million, while the NBV of these assets and fuel is approximately \$3.5 million. The Company estimates a total pre-tax gain on the overall transaction of approximately \$3.4 million, or \$2.5 million on a MN Electric jurisdictional basis, net of transaction costs. In addition to the profit from the sale, the Fuel Supply Agreement entered into as part of this transaction provides a cost savings to customers of \$1.8 million (total NSPM) over the remaining life of the assets, as compared to owning the tanks and fuel inventory. The Company proposes sharing the sale proceeds with customers, with \$1.37 million (54 percent) of the proceeds going to customers and \$1.16 million (46 percent) being retained by the Company. The retained proceeds represent compensation for the future return on the asset that the Company would have received if it continued to own the assets. Under this proposal, the combined benefit of the gain on sale and the Fuel Supply Agreement cost savings results in a total customer benefit of \$3.2 million (MN Electric Jurisdiction).

The requested \$1.2 million Company portion of the gain is equal to the amount of the return on the assets and fuel inventory that the Company would have earned if the tanks were not sold and instead the Company maintained ownership of the one operational storage tank and associated facilities through the end of its Commission-approved remaining life. We believe this is a reasonable proposal because of the unique circumstances and benefits to our customers resulting from this transaction. The transaction will allow the Company and its customers to continue to have the benefits of the fuel in the operational storage tank at a lower cost than if the Company continued to own the assets.

As described in more detail in this Petition, the sale is in the public interest and represents a fair transaction for both parties. Specifically, we request the Commission:

- Approve the sale of the storage tanks, fuel inventory, facilities, and real property to Flint Hills according to the terms and conditions of the Asset Purchase Agreement (the Agreement);

- Approve the proposed accounting treatment of the sales revenue, including allowing the Company to keep a portion of the revenue because of the unique circumstances and benefits to our customers resulting from this transaction; and
- Grant a variance to Minn. R. 7825.1800, subp. B as it relates to the information required under Minn. R. 7825.1400, subps. F through I, to the extent it is necessary.

## **I. SUMMARY OF FILING**

A one-paragraph summary is attached to this filing pursuant to Minn. R. 7829.1300, subp. 1.

## **II. SERVICE ON OTHER PARTIES**

Pursuant to Minn. R. 7829.1300, subp. 2, the Company has served a copy of this filing on the Office of the Attorney General – Antitrust and Utilities Division. A summary of the filing has been served on all parties on the enclosed service list.

## **III. GENERAL FILING INFORMATION**

Pursuant to Minn. R. 7829.1300, subp. 3, the Company provides the following information.

### **A. Name, Address, and Telephone Number of Utility**

Northern States Power Company doing business as:  
Xcel Energy  
414 Nicollet Mall  
Minneapolis, MN 55401  
(612) 330-5500

### **B. Name, Address, and Telephone Number of Utility Attorney**

Mara K. Ascherman  
Senior Attorney  
Xcel Energy  
414 Nicollet Mall, 401 – 8<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 215-4605

### **C. Date of Filing and the Date the Property Transfer is to take Effect**

The date of this filing is June 30, 2017. Xcel Energy has executed an Agreement for the sale, but the sale will not take place until after the Commission approves the Agreement.

### **D. Statute Controlling Schedule for Processing the Filing**

This filing is made under Minn. Stat. § 216B.50 (Restrictions on Property Transfer and Merger). Minn. Stat. § 216B.50 does not state a specific schedule for processing a property sale filing. Since no determination of Xcel Energy's general revenue requirement is necessary, this eligibility determination filing falls within the definition of a "miscellaneous filing" under Minn. Rule 7829.0100, subp. 11. Pursuant to Minn. Rule 7829.1400, subps. 1 and 4, initial comments on a miscellaneous filing are due within 30 days of filing, with replies due 10 days from the expiration of the original comment period.

### **E. Utility Employee Responsible for Filing**

Bria E. Shea  
Director, Regulatory & Strategic Analysis  
Xcel Energy  
414 Nicollet Mall, 401 – 7<sup>th</sup> Floor  
Minneapolis, MN 55401  
(612) 330-6064

## **IV. MISCELLANEOUS INFORMATION**

Pursuant to Minn. R. 7829.0700, the Company requests that the following persons be placed on the Commission's official service list for this proceeding:

Mara K. Ascherman  
Senior Attorney  
Xcel Energy  
414 Nicollet Mall, 401 - 8<sup>th</sup> Floor  
Minneapolis, MN 55401  
[mara.k.ascherman@xcelenergy.com](mailto:mara.k.ascherman@xcelenergy.com)

Carl Cronin  
Regulatory Administrator  
Xcel Energy  
414 Nicollet Mall, 401 - 7<sup>th</sup> Floor  
Minneapolis, MN 55401  
[regulatory.records@xcelenergy.com](mailto:regulatory.records@xcelenergy.com)

Any information requests in this proceeding should be submitted to Mr. Cronin at the Regulatory Records email address above.

## **V. DESCRIPTION AND PURPOSE OF FILING**

We request approval of the Agreement for sale of storage tanks, fuel inventory, tank facilities, and real property to Flint Hills.

In support of this filing, we provide the following information:

- Background,
- Purpose of filing,
- Standard of review,
- Description of transaction, and
- Effect of change on Xcel Energy revenue.

Attachments provided with this filing are listed below:

- Attachment A – Purchase Agreement
- Attachment B – Valuation Assessment
- Attachment C – Proposed Journal Entries
- Attachment D – Cost Benefit Analysis

### **A. Background**

Built in 1972, the Company's Inver Hills Generating Plant (the Plant) in Inver Grove Heights, Minnesota is a dual fuel capable simple cycle power plant comprised of six separate peaking generation units. The Plant was originally designed to operate primarily on fuel oil via three ten-million gallon fuel storage tanks and associated piping and ancillary equipment located adjacent to the Plant. An additional piping system extends to the south of the Plant in approximately a "horseshoe" configuration to provide for fuel delivery to the storage tanks.

One branch of the horseshoe terminates at the Magellan Midstream Partners owned pumping station, which is the current supply source of fuel oil used at the Plant. The other branch of the horseshoe terminates within the Flint Hills Resources Pine Bend refinery (the Refinery), and is currently non-operational. Approximately 20 years ago, the Plant was converted to utilize natural gas as its primary source of fuel while retaining capability to operate on fuel oil as a backup. Because of this dual fuel capability, the Plant plays an important role in our electric system as a black start

facility.<sup>1</sup> As a black start unit, the Company is required to have a back-up supply of fuel readily available, so a failure in supply of natural gas at the Plant does not render it unavailable. This back-up supply of fuel is stored in one of the three storage tanks that will be sold to Flint Hills. The other two tanks are empty and no longer used for fuel storage purposes.

Flint Hills is a subsidiary of Flint Hills Resources, LLC, which is a refining, chemicals and biofuels company with operations primarily in the Midwest and Texas. Flint Hills operates the Refinery in Rosemount, Minnesota. The Refinery, which is in close proximity to the Company's Plant, is among the nation's top producers of fuels and other petroleum-based products.

## **B. Purpose of Filing**

In this Petition, we seek Commission approval of the sale of the specified storage tanks, fuel inventory, tank facilities, and real property to Flint Hills, as described in the Agreement provided as Attachment A. Commission approval will allow the Company to proceed with closing the transaction.<sup>2</sup> We also request the Commission approve the proposed accounting treatment of the sales revenue and allow the Company to keep a portion of the revenue because of the unique circumstances of this transaction.

## **C. Standard of Review**

### *1. Statutory Requirements*

Minn. Stat. § 216B.50 governs the Commission's review of the proposed equipment sale. Minn. Stat. § 216B.50 provides as follows:

No public utility shall sell...any plant as an operating unit or system in this state for a total consideration in excess of \$100,000...without first being authorized to do so by the Commission. Upon the filing of an application for the approval and consent of the Commission thereto, the Commission shall investigate, with or without public hearing. The

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<sup>1</sup> Black Start Plants are required by the North American Electric Reliability Corporation (NERC), and the Company's plan is subject to review and approval by the Midcontinent Independent System Operator (MISO). The Company takes the lead in restoring the majority of the Minnesota bulk electric system in a black start outage event. The Inver Hills Generating Plant is a specially-equipped facility designated for this black start function.

<sup>2</sup> We note that the pending Remaining Lives filing does not assume the sale of these tanks. However, since the tanks are just one part of the Plant, the sale of these tanks does not impact the expected remaining life of the facility and therefore does not change the facts presented in the pending Remaining Lives filing.

Commission shall hold a public hearing, upon such notice as the Commission may require. If the Commission finds that the proposed action is consistent with the public interest, it shall give its consent and approval by order in writing. In reaching its determination, the Commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated. This section does not apply to the purchase of property to replace or add to the plant of the public utility by construction.

Thus, Commission approval depends on a showing that the transaction is consistent with the public interest. The transaction is in the public interest because the Company and its customers will continue to have the benefits of the fuel in the operational storage tank at a lower cost than if the Company continued to own the assets, and customers will also receive the benefit of a portion of the gain on sale.

2. *Rule 7825.1800, Subp. B Filing Requirements*

Minn. Rule 7825.1800, subp. B requires the Company to provide various detailed information (items A through J) set forth in Minn. Rule 7825.1400 for a transfer of property.

In this Petition we provide: Item A on page 1; Item B in Part V; Item C in Part III; Item D in Part IV; and Item E in Part VII. The derivation of the NBV of the equipment is described in the next section of the Petition, consistent with the type of information requested in Item J.

Items F through I are relevant to a capital structure filing and required for purposes of investigating the issuance of securities. We believe this information has no direct relevance and application to ascertaining whether the equipment sale pursuant to the present Agreement is consistent with the public interest; therefore, no such information is being submitted with this filing.

To the extent it is necessary, we respectfully request a variance of such filing requirements for purposes of this Petition. We believe the requirement to provide this information would impose an excessive burden on the Company, and granting a variance would not conflict with any statutory provisions or adversely affect the public interest.

The Commission has handled this issue in two different manners previously, either of

which is acceptable to the Company. The Commission has granted a variance in similar prior circumstances, such as in its Order issued on February 8, 2008 in regards to Xcel Energy's Petition for Approval to Sell Two Diesel Generators to United Healthcare Services Inc. (Docket No. E002/PA-07-1298). The Commission has also adopted the Department's recommendation that a variance of these rules is unnecessary as in its Order issued November 5, 2012 in regards to Xcel Energy's Petition for Appeal to Sell Used Electrical Equipment to Cypress Semiconductor Corporation (Docket No. E002/M-12-997).

## **D. Description of Transaction**

### *1. Agreement Terms*

Under the terms of the Agreement, Flint Hills will purchase from the Company three ten-million gallon aboveground storage tanks, the existing inventory in the operational tank, and the related facilities, pipelines, equipment, and certain real property upon which the tanks and facilities are located for a price of \$5.2 million.

In addition, Flint Hills will reimburse the Company for the purchase of new fuel measuring equipment (up to \$60,000) and one-half of the park dedication fee (\$25,000) charged by the City of Inver Grove Heights related to the subdivision of real property necessary for the transaction.

Finally, the Agreement requires Flint Hills to reimburse the Company for the value of any fuel inventory in the single operational tank at the time of closing at a market based rate. The value of fuel inventory at current quantity and market price is estimated at approximately \$2 million, and will require adjustment at the time of closing to properly reflect then current market pricing and inventory levels. In total, the estimated purchase price paid by Flint Hills to the Company is approximately \$7.3 million.

As part of the Agreement, the Company, Flint Hills, and Flint Hills Resources, LP, entered into a Fuel Supply Agreement, Exhibit D to this filing. Under the Fuel Supply Agreement, the parties acknowledge that the Company is required to continue

operating the Plant with black start capability,<sup>3</sup> and agree that Flint Hills will maintain an inventory sufficient to do so.<sup>4</sup>

## *2. Market Value Calculation*

Because of the condition, relatively small size, and location of the storage tanks, there is only a small market of buyers who would otherwise have potential interest in these assets, and no similar market data that could be used to estimate the market value of the assets. The Company therefore used a cost approach to determine the estimated market value. The cost approach essentially estimates the new replacement cost of a unit at a similar utility and then depreciates the cost to account for physical depreciation, functional depreciation (which quantifies the increased functionality or efficiencies in the new asset), and economic depreciation (which quantifies upgrades required to allow permitting or operation). The valuation assessment for the three tanks is provided as Attachment B.

As of May 31, 2017, the NBV of the physical assets (tanks, pipelines, related facilities) is currently \$917,245 and the land included in the transaction has a current NBV of \$89,539.

The NBV of the fuel inventory currently in the single operational storage tank is \$2,469,782. The NBV of fuel inventory currently exceeds the current market value of fuel by approximately \$500,000 due to a recent decline in fuel pricing.

Collectively, the current total NBV of assets (physical, land, and fuel) included in the transaction is approximately \$3,476,567.77.

## *3. Request to Retain a Portion of the Proceeds*

An accounting summary and related journal entries for the transaction is included as Attachment C to this filing. As described above and shown in the cost benefit analysis

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<sup>3</sup> It is not uncommon for the fuel for black start units or black start units themselves to be provided by or owned by a third party. The fuel to accomplish a black start is oftentimes procured from a third party, as was the fuel oil currently sitting in inventory in the storage tank. Black start units can also be owned and operated by a third party generator. One of the black start units at another regulated utility of Xcel Energy is owned and operated by a third party generator.

<sup>4</sup> The Fuel Supply Agreement will continue for nine successive one-year terms or until such time as the Company provides notice of termination to Flint Hills. Assuming all nine of the successive one-year extension terms are desired, the resultant December 31, 2026 end-date coincides with the end of the Plants' useful life, according to the Company's most recent Remaining Lives filing (Docket No. E,G002/D-17-147). That said, the Fuel Supply Agreement contemplates options to extend the Fuel Supply Agreements for a certain period past December 31, 2026 should the Company operate the Plant longer.

provided as Attachment D, the company estimates a total pre-tax gain on the overall transaction of approximately \$3.4 million (NSPM), or \$2.5 million (MN Electric jurisdiction).

In dockets similar to this one, the Commission has considered the unique attributes of a transaction to determine whether the Company's proposed transaction in the public interest and how to handle any potential gain or loss from the transaction. In a recent case, the Commission determined it was reasonable for the Company to share in the profits of a specific renewable energy credit sale.<sup>5</sup>

In the unique circumstances of this transaction, when the sales price exceeds the NBV, one of the three storage tanks is still in service and has a remaining life<sup>6</sup>, and the Agreement (specifically the Fuel Supply Agreement) will save customers money as compared to storing fuel in a regulated asset, the Company respectfully requests the Commission allow it to keep a portion of the sales proceeds. The portion retained by the Company is equal to the return on the assets and fuel inventory it would have received if the assets had been in service through the end of its Commission-approved remaining life. The Company is therefore requesting to keep an amount equal to \$1,159,848. Attachment A provides a rate analysis deriving the amount. This particular transaction benefits customers by reducing the cost of service. And, if the Company is allowed to keep a portion of the proceeds, the Company will be in the same position it would have been had the tanks never been sold.

Under this proposal, our customers would receive a benefit of approximately \$3.2 million, which consists of the remaining \$1.4 million of net gain on the sale and \$1.8 million of cost savings over the remaining life of the Plant. In accordance with our standard accounting practices for the retirement of depreciable utility plant asset, the Company proposes that we record the remaining sales proceeds as salvage, which results in an increase to our accumulated reserve for depreciation expense. This will reduce the annual capital revenue requirement for these assets and will require less overall payment from customers to fully recover the asset value.

Alternatively, if the Commission prefers to pass these gains on to our current customers, we propose to do so with a one-time credit through the Fuel Clause Adjustment (FCA). If this alternative is selected, we are also requesting that the

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<sup>5</sup> See *In the Matter of a Xcel Energy's Petition for Approval to Share Proceeds from the Sale of Renewable Energy Credits with Customers*, Docket No. E002/M-15-515, ORDER APPROVING PETITION WITH MODIFICATIONS (Aug. 26, 2015),

<sup>6</sup> See Docket No. E,G002/D-15-46, *In the Matter of Northern States Power Company's Request for Approval of the Annual Review of Remaining Lives Depreciation for Electric and Gas Production and Gas Storage Facilities and Net Salvage Rates for 2015*, ORDER SETTING DEPRECIATION LIVES AND SALVAGE RATES ALLOWING REALLOCATION OF SPECIFIC DEPRECIATION RESERVES, AND SETTING EFFECTIVE DATE, NOVEMBER 13, 2015.

Commission grant a variance pursuant to Minn. Rule 7829.3200 to allow this pass through of funds using the FCA. We believe this variance would facilitate an efficient pass through of benefits to customers, would further the public interest, and would not violate any standard imposed by law. A similar variance was granted by the Commission in Docket No. E002/M-06-1126 to facilitate a refund to customers of settlement funds the Company received from the Department of Energy.

Flint Hills will likely need to invest approximately \$1.5 million in each of the two storage tanks that have been retired by Xcel Energy in order to utilize them; even so, the sale price represents value to Flint Hills by allowing them to have additional storage capacity in close proximity to its Refinery in Rosemount.

Our customers benefit from this transaction by capturing gain on the sale as a reduction in depreciation expense and a reduction in fuel storage costs. The electrical system also benefits by continuing to have a reliable secondary fuel source for the Company's black start unit, the Inver Hills Generating Plant. Additionally there is a potential improvement in overall reliability of fuel oil supply with long term contracts in place with a major refinery located adjacent to the Plant. Under the Company's proposal, it also benefits by receiving an amount equivalent to the revenue requirement associated with the storage tank's remaining life, had the tank not been sold.

## **VI. EFFECT OF CHANGE UPON XCEL ENERGY REVENUE**

The Company expects future revenues will change because of the sale of the specified storage tanks, fuel inventory, tank facilities, and real property equipment to Flint Hills. In total, the net present value of the 2017-2026 annual revenue requirements will be reduced by approximately \$1.8 million. As noted above, the supporting calculations are provided in Attachment C.

## **VII. VERIFICATION**

Pursuant to Rule 7825.1400, Subp. E, Bria E. Shea and Mara K. Ascherman, Xcel Energy Services Inc. employees verify the information contained in this filing is accurate and complete to the best of the Company's knowledge.

## CONCLUSION

Xcel Energy respectfully requests that the Commission:

- Approve the sale of the specified storage tanks, fuel inventory, tank facilities, and real property to Flint Hills according to the terms and conditions of the Asset Purchase Agreement;
- Approve the proposed accounting treatment of the sales revenue, including allowing the Company to keep a portion of the revenue because of the unique circumstances of this transaction; and
- Grant variance to Minn. R. 7825.1800, subp. B as it relates to the information required under Minn. R. 7825.1400, subps. F through I, to the extent it is necessary.

Dated: June 30, 2017

Northern States Power Company

STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

IN THE MATTER THE PETITION OF  
NORTHERN STATES POWER COMPANY  
FOR APPROVAL TO SELL LAND AND  
TANKS TO FLINT HILLS RESOURCES PINE  
BEND, LLC

DOCKET No. E002/M-17-\_\_\_\_

**PETITION**

**SUMMARY OF FILING**

Please take notice that on June 30, 2017, Northern States Power Company doing business as Xcel Energy filed with the Minnesota Public Utilities Commission a Petition for approval to sell three storage tanks, the inventory of fuel oil, and the related facilities, and property to Flint Hills Resources Pine Bend, LLC.

**ASSET PURCHASE AGREEMENT**

Between

**NORTHERN STATES POWER COMPANY**

As Seller

And

**FLINT HILLS RESOURCES PINE BEND, LLC**

As Purchaser

Dated as of Feb. 10, 2017

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#### **EXHIBITS**

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Exhibit D	Form of Fuel Supply Agreement
Exhibit E	Form of Road Easement Agreement
Exhibit F	Form of Easement Assignment
Exhibit G	Inventory Testing Results

#### **SCHEDULES**

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Schedule 5.4	Governmental Authority of Purchaser
Schedule 6.8	Payment for Public Improvements

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**ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (together with the Schedules and Exhibits referenced herein and attached hereto, this “Agreement”), dated as of FEB 10, 2017 (the “Execution Date”), is by and between Northern States Power Company, a Minnesota corporation (“Seller”), and Flint Hills Resources Pine Bend, LLC, a Delaware limited liability company (“Purchaser”).

**WITNESSETH:**

WHEREAS, Seller wishes to sell and assign to Purchaser, and Purchaser wishes to purchase and assume from Seller, certain assets and certain liabilities of Seller described herein, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

1.1 Certain Definitions. As used herein, the following terms have the meanings set forth below:

“Access Agreement” means the Property Access Agreement between the Parties dated December 11, 2015.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Ad Valorem Taxes” has the meaning set forth in Section 6.8.

“Affiliate” (and, with a correlative meaning, “affiliated”) means, with respect to any Person, any other Person that directly, or through one or more intermediaries, controls or is controlled by or is under common control with such Person. As used in this definition, “control” (and, with correlative meanings, “controlled by” and “under common control with”) means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or other ownership interests, by contract or otherwise).

“Agreement” shall have the meaning as defined in the preamble to this Agreement.

“Allocation Schedule” shall have the meaning as defined in Section 3.3.

“Asset Material Adverse Effect” means any change, effect, event or condition, individually or in the aggregate, that has had, or, with the passage of time, would reasonably be expected to have a material adverse effect on the ownership, condition, or operation of the Acquired Assets as they are operated in the Ordinary Course of Business, including any environmental matter affecting the Acquired Assets that existed as of the Execution Date (other than matters identified in the course of the environmental inspection conducted by Purchaser prior to the execution of this Agreement) that would reasonably be expected to cost more than [REDACTED] to resolve or remediate in accordance with applicable Law or any environmental matter affecting the Acquired Assets that did not exist as of the Execution Date that

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would reasonably be expected to cost more than [REDACTED] to resolve or remediate in accordance with applicable Law.

“Assignment and Assumption Agreement” means the assignment and assumption agreement substantially in the form of Exhibit A.

“Assumed Environmental Liabilities” shall have the meaning as defined in Section 2.3a.

“Assumed Liabilities” shall have the meaning as defined in Section 2.3a.

“Bill of Sale” means the bill of sale transferring to Purchaser the Acquired Assets (excluding the Real Property) in the form of Exhibit B.

“Business Day” means any day, excluding: (i) Saturday; (ii) Sunday; and (iii) any day on which banks in Minneapolis, Minnesota, are authorized or required by law or other governmental action to close.

“Claims” means claims, liabilities, losses, damages, injuries, costs, expenses, awards or judgments, demands, compensation, suits, penalties, forfeitures, duties, obligations, administrative or other governmental orders, or actions or causes of action of whatever kind or nature, whether or not specifically enumerated herein.

“Claim Deadline Date” shall have the meaning set forth in Section 10.1.

“Claim Reduction Payment” shall have the meaning set forth in Section 10.3d.

“Closing” shall have the meaning as defined in Section 8.1.

“Closing Time” shall have the meaning as defined in Section 8.1.

“Closing Encumbrance” shall have the meaning as defined in Section 6.10b.

“Code” means the Internal Revenue Code of 1986, as amended from time to time. Section references to the Code are to the Code as in effect (and as amended) as of the Execution Date.

“Commercially Reasonable Efforts” shall mean efforts that a reasonable person would use to fulfill a covenant contained herein or satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Agreement.

“Confidentiality Agreement” means the Confidentiality and Non-Disclosure Agreement between the Parties dated December 11, 2015.

“Consent” means any approval, consent, ratification, waiver, clearance or other authorization from any Person.

“Damages” means, subject to the limitation in Section 10.3c, the amount of any actual claim, liability, loss, damage, injury, cost, expense, award or judgment, demand, compensation, suit, penalty, forfeiture, duty, obligation, administrative or other governmental order, or action or cause of action of whatever kind or nature, whether or not specifically enumerated herein, including those attributable to personal injury or death, property damage, contract claims, environmental investigation, remediation, removal or restoration costs, fines, penalties and other expenses (including, without limitation, those associated with the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9601 et. seq., Resource Conservation and Recovery Act (RCRA), 42 U.S.C.

§6901 et. seq., Clean Water Act, 33 U.S.C. § 1251 et. seq., Safe Drinking Water Act, 42 U.S.C. §300f et. seq., or any other federal, state or local law, rule or regulation related to pollution or to the protection of the environment), torts or otherwise, including reasonable fees and expenses of attorneys, consultants, accountants or other agents and experts reasonably incident thereto, and the costs of investigation and/or monitoring of such matters, and the costs of enforcement of any obligations under this Agreement.

“Deed” shall have the meaning as defined in Section 8.2b.

“Easements” shall have the meaning as defined in Section 2.1f.

“Easement Assignment” means the assignment agreement substantially in the form of Exhibit F.

“Encumbrances” means charges, liens, mortgages, security interests, pledges, options, rights of first refusal, easements, mortgages, deeds of trust, rights-of-way, restrictions, encroachments, licenses, leases, purchase right or options, or any other encumbrances, claims and other restrictions or limitations of any kind.

“Entitled Real Property” shall have the meaning as defined in Section 2.1g.

“Environmental Contamination” means Hazardous Substances present in the soil or groundwater.

“Excluded Assets” shall have the meaning as defined in Section 2.2.

“Execution Date” shall have the meaning as defined in the preamble to this Agreement.

“Fuel Supply Agreement” shall mean the Fuel Supply Agreement by and between Seller and Purchaser in the form of Exhibit D attached hereto. The Parties agree and acknowledge that the Fuel Supply Agreement will be executed simultaneously with this Agreement but will be effective upon Closing.

“GAAP” means United States generally accepted accounting principles (as such term is used in the American Institute of Certified Public Accountants Professional Standards) as of the date of any applicable financial statement or calculation, as applied on a consistent basis.

“Governmental Body” means any: (i) nation, state, county, city, town, village, district, or other jurisdiction of any nature; (ii) federal, state, local, municipal, foreign, or other government; (iii) governmental or quasi-Governmental Body of any nature (including any government agency, branch, department, official, or entity and any court or other tribunal); (iv) multi-national organization or body; or (v) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

“Governmental Order” means any Law, order, judgment, injunction, decree, stipulation or determination issued, promulgated or entered by or with any Governmental Body of competent jurisdiction, or by any arbitrator, in each case, whether preliminary or final.

“Hazardous Substance or Substances” means any hazardous or toxic substances, materials or wastes, including, but not limited to those substances, materials, and wastes listed in the United States Department of Transportation’s Hazardous Materials Table (49 CFR Part 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable Law. Hazardous Substances shall include, but not be limited to: (i) oil, including but not limited to,

petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes; (ii) asbestos; (iii) polychlorinated biphenyls; (iv) substances designated as a hazardous substance pursuant to Section 311 of the Clean Water Act, 33 USC § 1321 or pursuant to Section 307 of the Clean Water Act, 33 USC § 1317; (v) substances defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 USC § 6903 *et seq.*, as amended; (vi) substances defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC § 9601 *et seq.*, as amended; (vii) substances included as a hazardous material, substance or related material in the Hazardous Materials Transportation Act, as amended, 40 USC § 1801, *et seq.*, as amended; or (viii) substances listed as a hazardous air pollutant pursuant to the federal Clean Air Act, 42 USC § 7401 *et seq.*, as amended.

“Indemnified Party” means a Seller Indemnified Person or a Purchaser Indemnified Person.

“Independent Accounting Firm” shall have the meaning as defined in Section 3.3.

“Inventory” means any refined petroleum products owned by Seller and located in the Tanks or the Pipeline as of the Closing Time.

“Law” means any law, statute, rule, regulation, ordinance and other pronouncement having the effect of laws of the United States of America, any foreign country or any domestic or foreign state, county, city or other political subdivision or of any Governmental Body.

“Magellan Pipeline Lease” means that certain Pipeline Lease and License Agreement dated as of July 1, 1990, by and between Seller and Williams Pipe Line Company, a Delaware corporation, as amended by that certain First Amendment to Pipeline Lease and License Agreement dated as of January 20, 2011, by and between Seller and Magellan Pipeline Company, L.P., successor in interest to Williams Pipe Line Company.

“Minnesota Courts” shall have the meaning as defined in Section 11.4.

“Notice” shall have the meaning as defined in Section 11.1.

“Ordinary Course of Business” means the ordinary course of business of Seller related to the Acquired Assets (including the operation and maintenance of the Pipelines and Tanks) consistent with past custom and practice (including with respect to quantity and frequency).

“Owned Real Property” shall have the meaning as defined in Section 2.1e.

“Party” means Seller or Purchaser and “Parties” means, collectively, Seller and Purchaser.

“PCB Contamination” means (1) any Polychlorinated Biphenyls present in the soil or groundwater on or under the Owned Real Property at the time of Closing, (2) any migrations of any Polychlorinated Biphenyls from releases occurring on the Owned Real Property and migrating to areas off of the Owned Real Property occurring prior to or after the Closing, or (3) any migrations of any Polychlorinated Biphenyls from releases occurring on the real property owned by Seller or its Affiliates (other than the Owned Real Property) and migrating to the Pipeline Area occurring prior to or after the Closing (in any case not including such materials to the extent the release was caused by Purchaser or its Affiliates).

“Permits” means any permits, licenses, franchises, approvals, certificates, certifications, consents, emissions allowances, waivers, concessions, registrations or other authorizations required by any Governmental Body or Law.

“Permitted Encumbrances” means: (i) Encumbrances for Taxes not yet due or which are being contested in good faith by appropriate proceedings, provided that adequate reserves, with respect to Taxes which are being contested are maintained on the books of Seller in conformity with GAAP; (ii) with respect to the Real Property, any imperfections of title or Encumbrances that could be identified by either or both a commitment for title insurance or a survey of the Real Property in question (provided that, if, pursuant to Section 6.10c, Purchaser identifies any such imperfection of title or Encumbrance identified in this clause (ii) as a Closing Encumbrance, then such Closing Encumbrance will thereafter no longer constitute a Permitted Encumbrance for purposes of this Agreement, unless waived pursuant to Section 6.10e(ii)); (iii) with respect to the Real Property, any Encumbrances to which such Real Property is subject that do not currently materially interfere with Ordinary Course of Business; and (iv) easements, rights-of-way, restrictions and other similar Encumbrances which, in the aggregate, do not materially interfere with the Ordinary Course of Business.

“Person” means any individual, joint venture, corporation, general partnership, limited partnership, limited liability company, trust, unincorporated organization, Governmental Body or any other legally recognized entity.

“PFC Contamination” means (1) any Perfluorinated Hydrocarbons released on the Owned Real Property and present in the soil or groundwater on or under the Owned Real Property at the time of Closing, (2) any migrations of any Perfluorinated Hydrocarbons from releases occurring on the Owned Real Property and migrating to areas off of the Owned Real Property occurring prior to or after the Closing, or (3) any migrations of any Perfluorinated Hydrocarbons from releases occurring on the real property owned by Seller or its Affiliates (other than the Owned Real Property) and migrating to the Pipeline Area or the Owned Real Property occurring prior to or after the Closing (in any case not including such materials to the extent the release was caused by Purchaser or its Affiliates or by any third party (not including Seller’s Affiliates)).

“Pipeline Area” shall mean a strip of land fifty (50) feet in width, being twenty-five (25) feet on either side of the centerline of the Pipeline, but not including areas on the Owned Real Property.

“Pipeline Area Environmental Contamination” means Hazardous Substances present in the soil or groundwater on or under the Pipeline Area at the time of Closing and that resulted from releases of such Hazardous Substances from the Pipelines (not including Hazardous Substances to the extent the release of same was caused by Purchaser or its Affiliates).

“Pipelines” shall have the meaning as defined in Section 2.1a.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administered or inferred), commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

“Purchase Price” shall have the meaning as defined in Section 3.1.

“Purchaser” shall have the meaning as defined in the preamble to this Agreement.

“Purchaser’s Knowledge” means the actual knowledge of Geoff Glasrud, Randy Lenz, and Brett Webb, or any knowledge that would have been acquired by any such Persons upon reasonable inquiry.

“Purchaser Indemnified Person” shall have the meaning as defined in Section 10.2a.

“Purchaser Material Adverse Effect” means any change, effect, event or condition, individually or in the aggregate, that has had, or, with the passage of time, would reasonably be expected to have, a material adverse effect on the business, assets, properties, condition (financial or otherwise), results of operations, prospects or customer, supplier or employee relationships of Purchaser, taken as a whole (but not including any general industry conditions that affect Purchaser).

“Purchaser Required Consents” shall have the meaning as defined in Section 6.4b.

“Road Easement Agreement” shall have the meaning as defined in Section 2.1(f).

“Real Property” shall have the meaning as defined in Section 2.1g.

“Remediation” means all actions required by a Governmental Body or Governmental Order to (i) assess the nature and extent of any Environmental Contamination; (ii) clean up, remove, treat or in any other way address any Environmental Contamination; (iii) prevent or mitigate any Environmental Contamination so it does not endanger or threaten to endanger public health or welfare or the environment; (iv) assess the effectiveness or completeness of remedial activities relating to any Environmental Contamination, including post-remedial monitoring and care; or (v) correct a condition of non-compliance with applicable Law relating to Environmental Contamination.

“Required Consents” shall have the meaning as defined in Section 6.4c.

“Retained Liabilities” shall have the meaning as defined in Section 2.3b.

“Schedules” means the schedules attached hereto and made a part hereof.

“Seller” shall have the meaning as defined in the preamble to this Agreement.

“Seller Indemnified Person” shall have the meaning as defined in Section 10.6a.

“Seller Material Adverse Effect” means any change, effect, event or condition, individually or in the aggregate, that has had, or, with the passage of time, would reasonably be expected to have, a material adverse effect on the business, assets, properties, condition (financial or otherwise), results of operations, prospects or customer, supplier or employee relationships of Seller, taken as a whole (but not including any general industry conditions that affect Seller).

“Seller Required Consents” shall have the meaning as defined in Section 6.4a.

“Seller’s Knowledge” means the actual knowledge of Jim Shellberg and Jerry Dittmann, or any knowledge that would have been acquired by any such Persons upon reasonable inquiry.

“Straddle Period” has the meaning set forth in in Section 6.8.

“Tanks” shall have the meaning as defined in Section 2.1b.

“Tax” or “Taxes” (and with correlative meanings “Taxable” or “Taxing”) means with respect to any Person, all U.S. federal state, local, provincial, foreign or other income, gross receipts, sales, use, franchise, payroll (including federal and state income tax withholding, backup withholding, FICA, FUTA or other payroll taxes), environmental, excise, property, value-added, net worth, or any other material

taxes and any interest, penalties and additions imposed with respect to such amounts, which shall include, without limitation, any transferee liability for any of the foregoing types of taxes.

“Taxing Authority” means any government or subdivision, agency, commission or authority thereof, or any quasi-governmental or private body having jurisdiction over the assessment, determination or collection or other imposition of Taxes.

“Tax Return” means all U.S. federal, state, local, provincial and foreign returns, declarations, claims for refunds, forms, statements, reports, schedules, information returns or similar statements or documents, and any amendments thereof (including, without limitation, any related or supporting information or schedule attached thereto) required to be filed with any Taxing Authority in connection with the determination, assignment or collection of any Tax or Taxes.

“Third Party Claim” shall have the meaning as defined in Section 10.4a.

“Transaction Documents” means: (a) this Agreement; (b) the Bill of Sale; (c) the Assignment and Assumption Agreements; (d) the Deeds; (e) the Easement Assignments; (f) the Fuel Supply Agreement; (g) the Access Agreement; and (h) all other agreements, instruments and documents to be executed by the Parties in connection with this Agreement.

“Transactions” means the transactions contemplated by this Agreement and all of the Transaction Documents.

“Transfer Taxes” means all transfer, documentary, sales, use, excise, recording, stamp, registration and other similar Taxes and includes any interest and penalties assessed with respect to all such Taxes.

## 1.2 Other Definitional Provisions.

a. The terms defined in the neuter or masculine gender shall include the feminine, neuter and masculine genders, unless the context clearly indicates otherwise.

b. The calculation of time within which or following which any act is to be done or step is to be taken pursuant to this Agreement excludes the date that is the reference day in calculating such period.

c. Unless specified otherwise, whenever anything is required to be done or any action is required to be taken hereunder on or by a day that is not a Business Day, then such thing may be validly done and such action may be validly taken on or by the next succeeding day that is a Business Day.

d. Accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP. Wherever in this Agreement reference is made to a calculation to be made in accordance with GAAP, such reference shall be deemed to be to GAAP from time to time applicable as at the date on which such calculation is made or required to be made in accordance with GAAP.

e. As used in this Agreement, reference to dollar amounts, unless otherwise specifically indicated, means the lawful money of the United States of America.

f. The terms “include,” “includes” and “including” mean including without limiting the generality of any description preceding such term, and, for purposes of this Agreement, the rule of *ejusdem generis* shall not be applicable to limit a general statement that follows an enumeration of specific matters, to matters similar to the matters specifically enumerated.

g. All references to Articles, Sections, Subsections, appendices, exhibits or schedules in this Agreement are to Articles, Sections, Subsections, appendices, exhibits or schedules of or to this Agreement unless otherwise specified.

## **ARTICLE 2**

### **PURCHASE AND SALE OF ACQUIRED ASSETS**

2.1 Purchase of the Acquired Assets. Upon the terms and subject to the conditions of this Agreement, at and as of the Closing, Seller shall sell, transfer, convey, assign and deliver to Purchaser and Purchaser shall purchase and accept from Seller, all right, title and interest of Seller in, to and under the Acquired Assets (i) free and clear of any Encumbrances, other than Permitted Encumbrances, and (ii) in their present condition, “AS IS” and “WHERE IS,” with all faults and without warranty, whether express, implied, statutory or otherwise, except as provided in this Agreement, including the representations and warranties contained in Article 4 (including the related portions of the Schedules hereto). “Acquired Assets” means the following tangible and intangible rights, properties and assets (including, but not limited to all rights, title and interest associated therewith) of Seller as the same may exist at the Closing Time, but excluding the Excluded Assets:

a. All pipelines, and any associated gauges, valves, fixtures and appurtenances, owned by Seller and located on the Owned Real Property or within the Easements (the Parties acknowledge that such pipelines include that certain section of pipe that delivers fuel to the point of custody transfer as set forth in the Fuel Supply Agreement) (collectively, the “Pipelines”);

b. The three 10,000,000 gallon aboveground storage tanks located on the Owned Real Property (the “Tanks”);

c. The fire-suppression system and associated building, tanks and equipment currently located on the Owned Real Property;

d. The storage building and any other storage tanks, equipment, pipelines or other improvements currently located on the Owned Real Property;

e. The real property of Seller listed on Schedule 2.1e (collectively, the “Owned Real Property”);

f. The pipeline easements listed on Schedule 2.1f (subject to the matters set forth on Schedule 2.1f), together with any road or railroad crossing permits (if any) related to the Pipelines to the extent assignable (collectively, the “Easements”);

g. To the extent transferable, the property licenses and other real property entitlements benefiting the Owned Real Property, the Pipelines or the Easements (the “Entitled Real Property” and, together with the Owned Real Property and the Easements, the “Real Property”);

h. A right of access to the Owned Real Property over an existing driveway located on real property owned by Seller pursuant to an easement agreement in the form of Exhibit E attached hereto (the “Road Easement Agreement”);

i. Any Inventory in the Tanks or Pipelines as of the Closing Time and all technical and maintenance books and records in Seller’s possession relating exclusively to the Pipelines, the Tanks or the Real Property (provided, however, that the volume of Inventory conveyed hereunder will not exceed 1,400,000 gallons, and any volume over such amount will be removed by Seller from the Tanks/Pipeline prior to the Closing Time, unless a higher volume is approved by Purchaser);

j. Any and all rights (to the extent transferable) under any express or implied warranties provided by third parties relating to the Tanks or the Pipelines or any part or component thereof;

k. All Permits (to the extent transferable, giving effect to the Parties’ obligations hereunder as to the Required Consents) held by Seller that exclusively relate to the Acquired Assets; and

l. Seller’s rights under the Magellan Pipeline Lease, subject to receipt of consent-to-assignment from the lessee under such lease.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained herein, all assets of Seller other than the Acquired Assets shall be retained by Seller and shall be excluded from the sale and purchase of assets hereunder, including without limitation any improvements or equipment not located on the Owned Real Property or within the Pipeline Area (collectively, the “Excluded Assets”).

2.3 Assumed Liabilities and Retained Liabilities.

a. At and as of the Closing Time, Purchaser shall acquire the Acquired Assets in the condition provided for in Section 5.9, and shall assume (i) (A) responsibility for Remediation of Environmental Contamination (not including PCB Contamination or PFC Contamination) that exists on or under the Owned Real Property as of the Closing Time, and (B) subject to Section 10.7(a), responsibility for Remediation of Environmental Contamination (not including PCB Contamination or PFC Contamination covered under Sub. 2 or Sub. 3 of the definitions of such terms in Section 1.1) that exists on or under the Pipeline Area as of the Closing Time (collectively, the “Assumed Environmental Liabilities”), and (ii) all Claims caused by, relating to, arising from or in respect of the ownership, use and operation of the Acquired Assets after the Closing Time except to the extent such Claims are caused by the actions or inactions of Seller or its Affiliates that occur after the Closing Time, or to the extent such Claims relate to Remediation or other environmental responsibilities specifically retained by Seller pursuant to the terms of this Agreement (collectively, the “Assumed Liabilities”).

b. Purchaser shall not assume, and Seller shall retain and pay, perform and discharge when due, (i) all liabilities and obligations relating to Taxes (including those Taxes that are Permitted Encumbrances (other than as provided in Sections 2.5 and 6.8)) or (without affecting the Assumed Environmental Liabilities or the “as is” provisions or other waivers hereunder) other matters arising as a result of Seller’s (or its predecessors’) operation or ownership of the Acquired Assets prior to the Closing; (ii) any Remediation or other environmental responsibilities retained by Seller pursuant to the terms of this Agreement (under Section 2.3(a)(i) or otherwise) (which shall not include any Assumed Environmental Liabilities),

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and any Claims that arise as a result of the migration of Hazardous Substances off of the Owned Real Property or Pipeline Area prior to the Closing Time that resulted from the release of such Hazardous Substances (A) prior to the Closing Time, (B) on the Owned Real Property or Pipeline Area, and (C) by the Seller or its predecessors (or their contractors, agents, or lessees), and (iii) Seller's liabilities and obligations pursuant to the Transaction Documents (collectively, the "Retained Liabilities").

2.4 Simultaneous Deliveries and Actions. All deliveries to be made or other actions to be taken at the Closing shall be deemed to occur simultaneously, and no such delivery or action shall be deemed complete until all such deliveries and actions have been completed or the relevant Parties have agreed to waive such delivery or action.

2.5 Transfer Fees. Purchaser shall be liable for Transfer Taxes payable to the State of Minnesota or any of its political subdivisions in connection with the sale and purchase of the Real Property hereunder. Seller shall be liable for all Transfer Taxes imposed on or with respect to the purchase and sale of the Acquired Assets other than those set forth in the immediately preceding sentence. In the event that Seller intends to file any Tax Return or any other report with a Governmental Body related to any Transfer Taxes that Purchaser is obligated to pay, or intends to pay any such Taxes and seek reimbursement from Purchaser, Seller shall not make any such filing or payment without the prior review and written consent of Purchaser (not to be unreasonably withheld or delayed).

**ARTICLE 3**  
**PAYMENT OF CONSIDERATION**

3.1 Purchase Price. At Closing, in consideration for the transfer of the Acquired Assets and assumption of the Assumed Liabilities, Purchaser shall pay to Seller the aggregate purchase price of Five Million Two Hundred Thousand and no/100s Dollars (\$5,200,000.00) (the "Purchase Price"). In addition to the Purchase Price, Purchaser shall pay to Seller at Closing the following:

a. An amount equal to the value of the Inventory located in the Tanks or the Pipeline as of the Closing Time, determined as follows: The Parties will reasonably determine the volume of such Inventory as of the Closing Time, and if the Inventory is in a physical condition that materially complies with the results of the prior testing of the Inventory as attached hereto as Exhibit G, the per-gallon value of such Inventory will be equal to the [REDACTED]

[REDACTED] if such Inventory does not materially comply with the results stated in Exhibit G, the value will be as reasonably and mutually agreed to by the Parties;

b. An amount, up to a maximum amount of \$25,000, equal to one-half of the park dedication fee or similar cost or fees charged by the City of Inver Grove Heights or Dakota County in connection with the filing of a subdivision plat by Seller in order to establish the Owned Real Property as a separate, conveyable parcel of real property; and

c. An amount equal to the costs incurred by Seller to purchase fuel meters to measure the amount of fuel provided to the adjacent facility owned by Seller, as required by Section 6.12 of this Agreement, up to a maximum amount of \$60,000.00.

3.2 Payment. At Closing, Purchaser shall pay to Seller by wire transfer of immediately available funds an aggregate amount equal to the Purchase Price as adjusted pursuant to Section 6.8.

3.3 Purchase Price Allocation. Within 60 days after the Closing Time, Purchaser shall deliver to Seller a schedule allocating the Purchase Price (including any Assumed Liabilities treated as consideration for Tax purposes) to and among the Acquired Assets (the "Allocation Schedule"). Seller shall provide in a timely manner any information that Purchaser reasonably requests to prepare the Allocation Schedule. The Allocation Schedule shall be prepared in accordance with Section 1060 of the Code. The Allocation Schedule prepared by Purchaser shall be deemed final unless Seller notifies Purchaser in writing that Seller objects to one or more items reflected in the Allocation Schedule within 15 days after delivery of the Allocation Schedule to Seller. In the event of any such objection, Purchaser and Seller shall negotiate in good faith to resolve such dispute; *provided, however*, that if Purchaser and Seller are unable to resolve any dispute with respect to the Allocation Schedule within 15 days after the delivery of the Allocation Schedule to Seller, such dispute shall be resolved by a mutually acceptable and nationally recognized independent accounting firm (such firm, the "Independent Accounting Firm"). The decision of the Independent Accounting Firm shall be final and binding upon Seller and Purchaser, and the decision of the Independent Accounting Firm shall constitute an arbitral award that is final, binding and non-appealable and upon which a judgment may be entered by a court having jurisdiction thereover. In the event any such dispute is submitted to the Independent Accounting Firm for resolution, Seller and Purchaser shall each pay their own costs and expenses incurred under this Section 3.3 and one-half of the fees and costs of the Independent Accounting Firm. Seller and Purchaser agree to file their respective IRS Forms 8594 (if required) and all federal, state and local Tax Returns in accordance with the Allocation Schedule. Neither Seller nor Purchaser shall take any position (whether in audits, Tax Returns or otherwise) that is inconsistent with the Allocation Schedule unless required to do so by applicable Law.

#### **ARTICLE 4**

#### **REPRESENTATIONS AND WARRANTIES OF SELLER**

Seller hereby represents and warrants to Purchaser that the statements contained in this Article 4 are true and correct as of the Execution Date and will be true and correct as of the Closing Time.

4.1 Organization, Power, Standing. Seller is a corporation duly formed, validly existing and in good standing under the Laws of the State of Minnesota. Seller has all requisite power and authority, as the case may be, to own, operate or lease the Acquired Assets as presently operated and, as applicable, to enter into the Transaction Documents and to consummate the Transactions. Seller is duly authorized to conduct business and is in good standing in each jurisdiction where such authorization is required to conduct its business as currently conducted by it, except where the failure to so qualify or be in good standing would not reasonably be expected to have a Seller Material Adverse Effect.

4.2 Valid and Binding Agreement. The execution, delivery and performance of Transaction Documents by Seller have been duly and validly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by Seller and constitutes the valid and binding obligation of Seller, enforceable in accordance with its terms. Each Transaction Document, to which Seller will become a party, when executed and delivered by Seller, will constitute the valid and binding obligation of Seller.

4.3 No Conflict; Third Party Consents. Except as set forth on Schedule 4.3, the execution and delivery of this Agreement does not, and the execution and delivery of the other Transaction Documents will not, and the consummation of the Transactions will not: (a) violate or conflict with the provisions of the organizational documents of Seller; (b) result in the imposition of any Encumbrance (other than a Permitted Encumbrance) upon any of the properties or assets of Seller; (c) cause the

acceleration or material modification of any obligation under, create in any Person who is not a Party the right to terminate, constitute a material default or material breach of, or violate or conflict, in any material respect, with the terms, conditions or provisions of, any material note, bond, mortgage, including deed of trust, license, contract, undertaking, agreement, lease or other instrument or obligation to which Seller is a party or by which Seller is bound (whether with notice, lapse of time or both); or (d) result in a breach or violation by Seller of any of the terms, conditions or provisions of any Law or Governmental Order.

4.4 Government Authority. Except as set forth in Schedule 4.4, the execution, delivery and performance of this Agreement and the other Transaction Documents by Seller, and the consummation of the Transactions will not require on the part of Seller obtaining or filing any Governmental Order or any other filing with or notification to any Governmental Body.

4.5 Ownership of the Real Property, Easements, and Personal Property. Seller owns in fee, subject to the Permitted Encumbrances, the Owned Real Property, and Seller has the right to convey the Easements to Purchaser. Seller has good and marketable title to all tangible and intangible personal property included in the Acquired Assets, including the Pipelines and the Tanks, free and clear of all Encumbrances except Permitted Encumbrances.

4.6 Litigation. To Seller's Knowledge, there is no pending, or threatened, Proceeding that challenges, that may have the effect of preventing, delaying, making illegal, or otherwise interfering with, or would reasonably be expected to have any of the foregoing effects on, any of the Transactions.

4.7 Brokers. No broker or finder has acted for or on behalf of Seller in connection with this Agreement or the Transactions contemplated by the Transaction Documents. No broker or finder is entitled to any brokerage or finder's fee, or to any commission, or to any other compensation based in any way on agreements, arrangements or understandings made by or on behalf of Seller for which Purchaser has or will have any liability or obligation (contingent or otherwise).

4.8 No Additional Representations and Warranties.

a. Except for the representations and warranties contained in this Article 4 (including the related portions of the Schedules hereto), neither Seller nor any of its representatives has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty as to the accuracy or completeness of any information regarding Seller furnished or made available to Purchaser and its representatives, or any representation or warranty arising from statute or otherwise in Law.

b. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS ARTICLE 4 (INCLUDING THE RELATED PORTIONS OF THE SCHEDULES HERETO), THE ACQUIRED ASSETS ARE BEING CONVEYED AND SOLD TO PURCHASER HEREUNDER WITHOUT ANY WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WHATSOEVER, INCLUDING NO WARRANTY OR REPRESENTATION WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, RELATING TO TITLE TO THE ACQUIRED ASSETS OR RELATING TO THE CONDITION, QUANTITY, QUALITY, OR VALUE OF THE ACQUIRED ASSETS, THE PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES IN, ON, UNDER OR ABOUT THE ACQUIRED ASSETS, THE ZONING CLASSIFICATION OF THE ACQUIRED ASSETS, THE COMPLIANCE OF THE ACQUIRED ASSETS WITH APPLICABLE LAW, OR THE INCOME OR EXPENSES FROM OR OF THE ACQUIRED ASSETS.

SELLER EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION OF SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR ANY PURPOSE. PURCHASER HAS INSPECTED THE ACQUIRED ASSETS FOR ALL PURPOSES. PURCHASER IS RELYING SOLELY UPON ITS OWN INSPECTION OF THE ACQUIRED ASSETS, AND PURCHASER SHALL PURCHASE AND ACCEPT ALL OF THE ACQUIRED ASSETS IN THEIR PRESENT CONDITION (INCLUDING ENVIRONMENTAL CONDITION, BUT SUBJECT TO SELLER'S ENVIRONMENTAL RESPONSIBILITIES SPECIFICALLY SET FORTH IN THIS AGREEMENT), "AS IS, WHERE IS" AND WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE.

WITHOUT LIMITING THE FOREGOING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN THE DEED AS TO TITLE, INCLUDING THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS ARTICLE 4 (INCLUDING THE RELATED PORTIONS OF THE SCHEDULES HERETO), SELLER SPECIFICALLY MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, WITH REGARD TO TITLE TO THE ACQUIRED ASSETS, ANY IMPROVEMENTS THEREON, OR ANY INTEREST THEREIN.

THE DISCLAIMERS, WAIVERS AND OTHER PROVISIONS OF THIS SECTION 4.8 INURE TO THE BENEFIT OF SELLER AND SELLER'S PREDECESSORS IN INTEREST.

SELLER AND PURCHASER EACH STIPULATE AND AGREE THAT (A) PURCHASER IS A SOPHISTICATED PURCHASER OF REAL PROPERTY, (B) THE TERMS OF THIS SECTION 4.8 ARE A MATERIAL PART OF THIS AGREEMENT AND HAVE BEEN SPECIFICALLY READ AND UNDERSTOOD BY PURCHASER, (C) THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THIS SECTION 4.8 HAS BEEN FREELY NEGOTIATED, AND (D) PURCHASER HAS BEEN REPRESENTED BY LEGAL COUNSEL IN CONNECTION WITH THIS AGREEMENT.

THE PROVISIONS OF THIS SECTION 4.8 SHALL SURVIVE CLOSING INDEFINITELY.

4.9 Taxes. All Tax Returns relating to or encompassing the Acquired Assets required to be filed with any Taxing Authority have been timely and properly filed in accordance with applicable Laws. All such Tax Returns are true, correct and complete in all material respects. Except for the lien of real estate taxes and assessments that are not delinquent, there are no Encumbrances for Taxes upon the Acquired Assets. No audits or administrative or judicial proceedings are pending or, to Seller's Knowledge, threatened against Seller with respect to the Acquired Assets. Seller has not entered into any contract with or obtained a ruling from a Taxing Authority respecting the Acquired Assets that would be binding on Purchaser for any taxable period (or portion thereof) ending after the Closing Time. To Seller's Knowledge, the transactions contemplated by this Agreement will not terminate any Tax incentive, holiday or abatement relating to the Acquired Assets.

## **ARTICLE 5**

### **REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser hereby represents and warrants to Seller that the statements contained in this Article 5 are true and correct as of the Execution Date and will be true and correct as of the Closing Time.

5.1 Organization, Power, Standing. Purchaser is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware. Purchaser is duly authorized to conduct business and is in good standing in each jurisdiction where such authorization is required to conduct its business as currently conducted by it, except where the failure to so qualify or be in good standing would not reasonably be expected to have a Purchaser Material Adverse Effect.

5.2 Valid and Binding Agreement. The execution, delivery and performance of the Transaction Documents by Purchaser have been duly and validly authorized by all necessary company action. This Agreement has been duly executed and delivered by Purchaser and constitutes the valid and binding obligation of Purchaser, enforceable in accordance with its terms. Each Transaction Document, to which Purchaser will become a party, when executed and delivered by Purchaser, will constitute the valid and binding obligation of Purchaser.

5.3 No Conflict; Third Party Consents. Except as set forth on Schedule 5.3, the execution and delivery of this Agreement does not, and the execution and delivery of the other Transaction Documents will not, and the consummation of the Transactions will not: (a) violate or conflict with the provisions of the organizational documents of Purchaser; (b) result in the imposition of any Encumbrance (other than a Permitted Encumbrance) upon any of the properties or assets of Purchaser; (c) cause the acceleration or material modification of any obligation under, create in any Person the right to terminate, constitute a material default or material breach of, or violate or conflict, in any material respect, with the terms, conditions or provisions of, any material note, bond, mortgage, including deed of trust, license, contract, undertaking, agreement, lease or other instrument or obligation to which Purchaser is a party or by which Purchaser is bound (whether with notice, lapse of time or both); or (d) result in a breach or violation by Purchaser of any of the terms, conditions or provisions of any Law or Governmental Order.

5.4 Government Authority. Except as set forth in Schedule 5.4, the execution, delivery and performance of this Agreement and the other Transaction Documents by Purchaser, and the consummation of the Transactions will not require on the part of Purchaser any Governmental Order or any filing with or notification to any Governmental Body.

5.5 Litigation. To Purchaser's Knowledge, there is no pending, or threatened, Proceeding, that challenges, or that may have the effect of preventing, delaying, making illegal, or otherwise interfering with, or that would reasonably be expected to have any of the foregoing effects on, any of the Transactions.

5.6 Sufficiency of Funds. Purchaser will have available on the Closing Time sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price to Seller and consummate the Transactions.

5.7 Brokers. No broker or finder has acted for or on behalf of Purchaser or any Affiliate of Purchaser in connection with this Agreement or the Transactions contemplated by the Transaction Documents. No broker or finder is entitled to any brokerage or finder's fee, or to any commission, or to any other compensation based in any way on agreements, arrangements or understandings made by or on behalf of Purchaser or any Affiliate of Purchaser for which Seller has or will have any liability or obligation (contingent or otherwise).

5.8 Due Diligence and Independent Investigation. Purchaser is knowledgeable about the refining, transport and storage of petroleum-based fuel and the usual and customary practices of companies engaged in such business. Purchaser has had access to the Acquired Assets and sufficient opportunities to discuss relevant information regarding the Acquired Assets with Seller's appropriate employees, agents, representatives and Affiliates. Purchaser has conducted its own independent

investigation of the Acquired Assets and is relying, in its decision to enter into this Agreement and consummate the Transactions, exclusively on (a) such investigation and (b) the representations and warranties made in Article 4.

5.9 No Additional Representations and Warranties. Purchaser acknowledges that, as more particularly set forth in Section 4.8 above, (a) the Acquired Assets are being conveyed and sold to, and accepted by, Purchaser in their present condition (including environmental condition, but subject to Seller's environmental responsibilities specifically set forth in this Agreement), "AS IS," "WHERE IS" and with any faults, and (b) neither Seller nor any of its representatives has made or makes hereby any other express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty arising from statute or otherwise in Law. Purchaser further acknowledges that none of Seller, any Affiliate of Seller or any other Person has, directly or indirectly, made any representations or warranties regarding any pro-forma financial information, financial projections or other forward-looking statements with respect to the Acquired Assets.

## **ARTICLE 6**

### **COVENANTS AND AGREEMENTS OF SELLER AND PURCHASER**

6.1 Conduct of the Business. From the Execution Date until the Closing Time:

a. Seller will conduct its business with respect to the Acquired Assets only in, and will not take any action except in, the Ordinary Course of Business and in accordance in all material respects with applicable Law and Governmental Orders, and maintain the Acquired Assets consistent with the Ordinary Course of Business (reasonable wear and tear excepted);

b. Seller shall not create, incur, assume or suffer to exist any new Encumbrance (other than Permitted Encumbrances) upon any Acquired Asset;

c. Seller shall not enter into, assign, amend, relinquish or waive any material rights under, or renew, extend or terminate any Easements, without the written consent of Purchaser, provided that, such consent shall not be unreasonably withheld or delayed;

d. Seller shall continue to pay all fees, expenses and any other amounts payable or due in respect of any Real Property, whether public or private, or under any Easement;

e. Other than in the Ordinary Course of Business, Seller shall not amend in any material respect, breach in any material respect, terminate or allow to lapse, become subject to default in any material respect or fail to apply for any renewal of, any Permit material to the Acquired Assets, other than as required by Law, nor shall Seller amend or modify the Magellan Pipeline Lease;

f. Seller will not cancel or terminate its current insurance policies relating to the Acquired Assets or allow any of the coverage thereunder to lapse, unless simultaneously with such termination, cancellation or lapse, Seller obtains and maintains replacement policies providing coverage equal to or greater than the coverage under the canceled, terminated or lapsed policies for substantially similar premiums as such policies currently in effect; and

g. Seller shall not make any commitment to any third party to take any of the actions prohibited by this Section 6.1.

6.2 Notice of Developments and Access to Acquired Assets and Records.

a. Each Party will promptly notify the other Party of any emergency or other material change with respect to the status of the Acquired Assets or the Transactions or the commencement or threat of any Proceeding that could have a Seller Material Adverse Effect, a Purchaser Material Adverse Effect or an Asset Material Adverse Effect. Each Party will promptly notify the other Party in writing if such notifying Party should discover that any representation or warranty made by it in this Agreement was at the time of making, has subsequently become or will be on the Closing Time, untrue in any respect, or the occurrence of any event that would prevent the satisfaction of any conditions to Closing set forth in Article 7. No disclosure pursuant to this Section 6.2 will be deemed in and of itself to amend or supplement the Schedules or to prevent or cure any inaccuracy, misrepresentation, breach of warranty or breach of agreement.

b. From and after the Execution Date and until the Closing Time, Seller shall cooperate with Purchaser and its representatives to provide Purchaser with, on reasonable notice and at reasonable times, the opportunity to speak with Seller's employees, and to review books, papers and records to the extent that they reasonably relate to the Acquired Assets; *provided, however,* that (x) such discussions with Seller's employees or the review of such books, papers and records shall not unreasonably interfere with the operation of Seller's business, (y) Seller shall not be required to take any action which would constitute or result in a waiver of the attorney-client privilege and (z) Seller shall not be required to supply Purchaser with any information which Seller is under a legal obligation not to supply. All documents or information furnished by Seller or obtained by Purchaser hereunder shall be subject to Section 6.5.

6.3 Access Agreement and Confidentiality Agreement. Pursuant to the terms of the Access Agreement, Seller granted to Purchaser access to the Acquired Assets so that Purchaser could conduct, at its sole risk and expense, on-site inspections and environmental assessments of the Acquired Assets. The terms of the Confidentiality Agreement apply to information gathered during such inspections and assessments. Prior to the Closing Time and subject to Seller's reasonable consent, Seller shall provide Purchaser with reasonable access to the Acquired Assets for purposes of facilitating the transition of ownership or the exercise of rights hereunder, or conducting activities hereunder, in such a manner so as not to unreasonably interfere with the business or operations of Seller, provided that Seller shall have the right to impose reasonable restrictions and requirements for safety or operational purposes. Notwithstanding anything to the contrary in this Agreement, Seller and Purchaser agree and acknowledge that Purchaser has completed its anticipated diligence with respect to the Owned Real Property and the Acquired Assets in accordance with the terms of the Access Agreement, but Seller and Purchase agree and acknowledge that this sentence does not prevent Purchaser from conducting further diligence activities that are mutually agreed to by the Parties, or that relate to the investigation of any event or matter that could reasonably give rise to Purchaser having a right to elect to not consummate the Transactions (such as the occurrence of an event that might be an Asset Material Adverse Effect). The indemnity provision in Paragraph 5 of the Access Agreement will apply to matters arising out of the access rights under this Section 6.3. The provisions of this Section shall survive termination of this Agreement. Purchaser anticipates having to make certain repairs/changes to certain of the Tanks and Pipelines after Closing. Seller agrees that Purchaser may (at times and in manners reasonably agreed to by the Parties) conduct further physical, non-destructive inspections of the Tanks, in an effort to determine what repairs/changes to the Tanks might be needed after Closing, but Purchaser agrees that it will not use the results of the inspections under this sentence to exercise any right to terminate this Agreement before Closing (such restriction will not apply to any Asset Material Adverse Effect that is discovered/ascertained, or would have been reasonably discoverable/ascertainable, independent of such

inspections). Any such additional investigations or inspections performed in accordance with the preceding sentence shall be subject to and in accordance with the provisions of this Section 6.3.

6.4 Consents and Authorizations; Regulatory Filings.

a. Seller shall use its Commercially Reasonable Efforts, at its expense, to (i) obtain all Consents described in Schedule 4.3 or otherwise identified prior to the Closing Time to be required to effectuate the conveyance hereunder, including approval by the Minnesota Public Utilities Commission of the transactions contemplated in this Agreement to the sole satisfaction of Seller (collectively, the “Seller Required Consents”), within a reasonable period of time after the Execution Date; and (ii) use Commercially Reasonable Efforts to cooperate with Purchaser with respect to the taking of all necessary steps to transfer title of the Acquired Assets that require a specific act or document to transfer title to Purchaser at the Closing (or to evidence any such transfer). Purchaser shall reasonably cooperate with Seller to the extent necessary to obtain the Seller Required Consents. Seller shall keep Purchaser reasonably advised of the status of obtaining the Seller Required Consents.

b. Purchaser shall use its Commercially Reasonable Efforts to obtain, within a reasonable period of time after the Execution Date, all Consents described in Schedule 5.3 (the “Purchaser Required Consents”). Seller shall reasonably cooperate with Purchaser to the extent necessary to obtain the Purchaser Required Consents. Purchaser shall keep Seller reasonably advised of the status of obtaining the Purchaser Required Consents.

c. In the event that any of the Seller Required Consents and the Purchaser Required Consents (herein collectively, the “Required Consents”) are not obtained and the Closing proceeds without such Required Consents having been obtained, the Party responsible for any such Required Consents shall, or shall cause its agents to, use all Commercially Reasonable Efforts to assist the other Party in obtaining or making any such Required Consents after the Closing Time until such time as such Required Consents have been obtained; *provided, however*, that neither Party shall be liable to the other Party in the event that Purchaser and Seller are unable to secure any such Seller Required Consents.

d. On or prior to June 30, 2017, Seller shall request approval of the transactions contemplated by this Agreement from the Minnesota Public Utilities Commission.

e. Within 60 Business Days following the Closing Time, Seller shall file and Purchaser, prior to and following the Closing, shall cooperate and take all reasonable actions necessary to permit Seller to file all notices required to be filed with any Governmental Body in connection with the Transactions.

f. At all times prior to the Closing, the Parties hereto shall cooperate and coordinate with each other, as appropriate, with respect to filings and notifications to Governmental Bodies in connection with obtaining or making the Required Consents. In particular, representatives of Purchaser and Seller will confer with each other on a regular basis to report matters relating to the status of all filings and notices made with or to Governmental Bodies hereunder.

6.5 Confidentiality. The Parties agree that the Confidentiality Agreement will survive the execution of this Agreement but will automatically expire and terminate at the Closing Time.

6.6 Public Announcements. Neither Seller nor Purchaser shall, without prior written consent of the other Party, issue any press release or make any public statement with respect to this Agreement

and the Transactions, except (i) as may be required to disclose by judicial or administrative process (including in connection with obtaining the necessary approvals of this Agreement and the Transactions from relevant Governmental Bodies); (ii) required by applicable Law or (iii) required under any listing agreement with a national securities exchange or quotation system; provided, however, prior to any such compelled statement, the compelled Party will consult with and provide the other Party a reasonable opportunity to review and make reasonable comment upon such press release or public statement.

6.7 Payment of All Taxes Resulting From Sale of Assets by Seller. Other than as provided in Section 2.5 and Section 6.8, Seller will pay in a timely manner all Taxes resulting from or payable in connection with the sale of the Acquired Assets pursuant to this Agreement, regardless of the Person on whom such Taxes are imposed by Law. Seller shall indemnify Purchaser from and against and in respect of any and all Damages incurred by Purchaser related to any of the Taxes for which Seller has agreed to be responsible under this Agreement (including Damages related to any Taxes that create a Permitted Encumbrance), and the defense of any audits or administrative or judicial proceedings relating to such Taxes shall remain the sole responsibility of Seller. The indemnity obligation set forth in this Section 6.7 shall survive the Closing indefinitely and shall not be subject to any restrictions or limitations. Seller and Purchaser will (a) each provide the other with such assistance as may reasonably be requested by any of them in connection with the preparation of any Tax Return, audit or other examination by any Taxing Authority or judicial or administrative proceedings relating to liability for Taxes, (b) each retain and provide the other with any records or other information that may be relevant to such Tax Return, audit or examination, proceeding or determination, and (c) each provide the other with any final determination of any such audit or examination, proceeding or determination that affects any amount required to be shown on any Tax Return of the other for any period.

6.8 Pro Rated Items. All property and ad valorem Taxes, leasehold rentals and other customarily proratable items relating to the Acquired Assets (“Ad Valorem Taxes”) payable or accrued prior to or subsequent to the Closing Time and relating to a period of time both prior to and subsequent to the Closing Time (“Straddle Period”) will be prorated on a per diem basis as of the Closing between Seller and Purchaser, such that Seller is responsible for any such payments that are payable or relate to a period prior to the Closing Time and Purchaser is responsible for any such payment that is payable or relates to a period beginning on the Closing Time and thereafter. Any exemption, deduction or credit attributable to Ad Valorem Taxes for a Straddle Period shall be allocated between Seller and Purchaser on a per diem basis. Seller shall deliver a statement to Purchaser at or before the Closing setting forth Seller’s calculation of the prorations set forth herein and the Parties shall negotiate in good faith to resolve any disputed items. The Purchase Price shall be adjusted to account for each party’s appropriate share of such Ad Valorem Taxes, and Purchaser shall be responsible for paying to the applicable Taxing Authority all Ad Valorem Taxes that are due after the Closing Time. If the actual amount of any such item is not known as of the Closing Time, such proration will be based on the previous year’s assessment of such item and the Parties will adjust such proration and pay any underpayment or reimburse for any overpayment within 30 days after the actual amount becomes known. Except as set forth in Schedule 6.8, Seller shall pay, on or before the Closing Time, all assessments for public improvements levied, pending or deferred against the Real Property as of the Closing Time. Purchaser shall pay and be liable for all assessments imposed or levied on the Real Property after the Closing, provided that, if any such assessment resulted from conditions, events or activities that arose prior to the Closing Time, such assessment shall be borne by Seller.

6.9 Access to Tax Information after the Closing Time. Purchaser, on the one hand, and Seller, on the other hand, will make available to the other, as reasonably requested, all information, records or documents relating to the Taxes of the Acquired Assets for periods ending on or prior to the Closing Time and will otherwise reasonably cooperate with respect to Tax matters, including with respect to audits, inquiries, assessments, or similar proceedings. Until the expiration of 120 days after the

applicable statute of limitations period (including extensions thereof), Purchaser and Seller shall retain all pertinent Tax and accounting records necessary or useful for determining the Tax liability of the Acquired Assets for periods prior to and through the Closing Time.

6.10 Title Commitment and Title Search. Seller shall provide to Purchaser, promptly following the Execution Date, copies of any preliminary subdivision plats, boundary sketches or surveys showing the boundaries of the Owned Real Property or setting out a legal description of the Owned Real Property that are in the possession of Seller.

b. At Seller's sole cost and expense, Seller shall provide to Purchaser, within 90 days following the Execution Date, a commitment to issue title insurance insuring fee simple title to the Owned Real Property and an easement estate in the Easements, subject to the exceptions to title noted therein. Purchaser shall be solely responsible for any endorsements to such title insurance commitment and any title premiums required to be paid to issue the title insurance reflected in such commitment. Within 20 days after Purchaser's receipt of such title commitment, Purchaser shall make any reasonable objections it may have to the contents thereof (matters reflected therein and not objected to within such period shall be deemed Permitted Encumbrances).

c. Any objections to the title commitment within the required time period relating to the Owned Real Property or the Easements that are so identified by Purchaser pursuant to (a) of this Section 6.10 constitute a "Closing Encumbrance" for purposes hereof. Any other Encumbrance that materially affects the Owned Real Property or the Easements that is not shown in the title commitment but that is identified in writing by Purchaser to Seller prior to Closing, and any area of the Pipeline route that is not covered by a sufficient, permanent easement and that is identified in writing by Purchaser to Seller prior to Closing, will also be considered a Closing Encumbrance.

d. Seller may, but shall have no obligation to, cure any Closing Encumbrances. Seller shall have 30 days after receipt of notice of any Closing Encumbrances identified by Purchaser to deliver notice to Purchaser (the "Cure Notice") identifying the Closing Encumbrances, if any, Seller intends to cure, at its discretion, which such cure shall be effected at Seller's sole cost and expense prior to the Closing; provided, however, (i) Seller shall have no obligation with respect to any Closing Encumbrances not contained in the Cure Notice and (ii) failure to cure any Closing Encumbrance not listed in the Cure Notice shall constitute neither (A) a breach of any of Seller's covenants contained herein, including the covenant contained in Section 6.1, nor (B) a failure by Seller to comply with its obligations under this Agreement with respect to Section 9.1b(ii).

e. If any Closing Encumbrances are not cured prior to the Closing, Purchaser will have the option (which shall be its sole remedy with respect thereto) to (i) terminate this Agreement or (ii) waive such objections and proceed to consummate the Closing; provided, however, if Purchaser proceeds to consummate the Closing, any Closing Encumbrances not cured shall be deemed Permitted Encumbrances (excluding Encumbrances for Taxes) for the purposes of this Agreement.

6.11 Risk of Loss. Subject to and without limiting the effect of Section 3.1, the risk of any loss, damage, impairment, confiscation or condemnation of any of the Acquired Assets from any cause whatsoever shall be borne by Seller at all times prior to the Closing, and by Purchaser at all times thereafter. If prior to Closing any material portion of the Property is damaged or destroyed by fire or other casualty, Seller shall promptly give notice thereof to Purchaser, and Purchaser at its option (to be

**TRADE SECRET DATA SHADED**

exercised within thirty (30) days after Seller's notice) may either (a) notify Seller that it desires to terminate this Agreement, or (b) proceed to Closing and receive at Closing a payment or an assignment of all amounts recovered or recoverable by Seller on account of insurance on the Property. As used in this Section 6.11, the term "material portion of the Property" shall mean damage to the Property that would cost in excess of [REDACTED] to repair. If Purchaser notifies Seller that it desires to terminate this Agreement, Seller may, at its option repair and restore such damage, and Purchaser shall promptly after completion of such repair and restoration proceed to Closing subject to the terms of this Agreement.

6.12 Pre-Closing Covenants and Post-Closing Covenants. Prior to Closing, Seller shall use commercially reasonable efforts to (i) install the meters at the Property as detailed in the Fuel Supply Agreement in order to measure the amount of fuel provided to the adjacent facility owned by Seller (such installation work to be completed by Closing, as noted in Section 7.1c below), and (ii) relocate and install the security fence at the Property so that Purchaser can access the Property. The Parties agree that the relocation and installation of the fence shall permit Purchaser to access the Property via the existing road access off of Clark Road and over the land described in the Road Easement Agreement. Seller's security measures at that initial point of access shall accommodate Purchaser so that Purchaser can freely enter the land described in the Road Easement Agreement for the purpose of accessing the Owned Real Property, and any of Seller's other security measures shall not interfere with Purchaser's ability to access the Owned Real Property. Purchaser agrees that it is responsible for all other security measures applicable to the Owned Real Property, provided that such measures shall not interfere with Seller's use of the land described in the Road Easement Agreement. If the fence is not relocated and installed prior to Closing, Seller will make commercially reasonable efforts to complete such work as soon as reasonably possible after Closing, and until complete, will allow Purchaser and its contractors access to the Property 24 hours per day, seven days per week. Following the Closing, Seller shall continue to make available electricity and water to the Property for Purchaser's use on the Property until Purchaser completes its own connections for electricity and water (Purchaser will make reasonable efforts to complete such connections without unreasonable delay; Purchaser anticipates not needing more than twelve months after Closing to complete such connections), using the same utility configurations that existed as of the Execution Date. Purchaser may modify the utility service lines and hydrant supply system on the Property following the Closing, provided that Purchaser obtains Seller's consent to any such modifications (such consent not to be unreasonably withheld by Seller).

6.13 Further Assurances. At any time or from time to time after the Closing Time, Seller shall, at the request of Purchaser and at the expense of Purchaser (except to the extent Seller is responsible for a specific cost under the terms of this Agreement), as applicable, execute and deliver any further instruments or documents and take all such further action as Purchaser may reasonably request in order to consummate and make effective the Transactions contemplated by this Agreement.

**ARTICLE 7**  
**CONDITIONS TO CLOSING**

7.1 Conditions to Each Party's Obligations. The respective obligations of each Party to consummate the Transactions shall be subject to the conditions that, at the Closing (unless waived in writing by each Party):

- a. No Injunction. There shall be no Governmental Order or Action pending by or before any Governmental Body to obtain a Governmental Order, to the effect that the Transactions may not be consummated as herein provided or otherwise seeking to prohibit or restrict the consummation of the Transactions.

b. No Threat of Injunction. No Party shall have received a written notice of a Governmental Order from any Governmental Body indicating an intent to restrain, prevent, materially delay or restructure the Transactions.

c. Performance Under Fuel Supply Agreement. Each Party shall have determined, to its reasonable satisfaction, that the other Party will be able to perform its obligations under the Fuel Supply Agreement as of the Closing Time. Each Party agrees to use commercially reasonable efforts to take such actions prior to Closing as are necessary and appropriate to ensure that such Party can perform its obligations under the Fuel Supply Agreement beginning as of the Closing Time, including without limitation performing its obligations relating to measuring fuel sold under the Fuel Supply Agreement.

7.2 Conditions to Obligations of Seller. The obligation of Seller to consummate the Transactions shall be subject to the fulfillment on or prior to the Closing Time of each of the following conditions (unless waived in writing by Seller, in its absolute and sole discretion):

a. Closing Deliveries. Purchaser shall have tendered or delivered to Seller the items listed in Section 8.3.

b. Representations and Warranties of Purchaser. Each of the representations and warranties of Purchaser set forth in Article 5 shall be true and correct as of the Execution Date, and shall be true and correct in all material respects at and as of the Closing Time with the same force and effect as though newly made as of that date.

c. Covenants of Purchaser. Purchaser shall have performed in all material respects all of its obligations under this Agreement that by the terms of such obligations are to be performed on or before the Closing Time.

d. Purchaser Material Adverse Effect. No Purchaser Material Adverse Effect shall have occurred and not be cured by the Closing Time.

e. Officer's Certificate.

(i) Seller shall have received a certificate duly executed by a senior officer of Purchaser, in a form reasonably satisfactory to Seller, to the effect that each of the conditions specified in Sections 7.2b, 7.2c and 7.2d have been satisfied.

(ii) Seller shall have received a certificate duly executed by the corporate secretary of Purchaser certifying that the officers of Purchaser who execute this Agreement and the other Transaction Documents on behalf of Purchaser have the proper authority to execute such documents.

f. Required Consents. Each Seller Required Consent and each Purchaser Required Consent shall have been obtained and be in full force and effect and be in a form satisfactory to Seller (which approval of Seller shall not be unreasonably withheld, conditioned or delayed).

g. Release of Indenture. Seller has obtained a release of the indenture encumbering the Acquired Assets, if any.

7.3 Conditions to Obligations of Purchaser. The obligations of Purchaser to consummate the Transactions shall be subject to the fulfillment on or prior to the Closing Time of each of the following conditions (unless waived in writing by Purchaser in its absolute and sole discretion):

a. Closing Deliveries. On or prior to the Closing Time, Seller shall have delivered to Purchaser the items set forth in Section 8.2.

b. Representations and Warranties of Seller. The representations and warranties of Seller set forth in Article 4 shall be true and correct in all material respects as of the Execution Date, and shall be true and correct in all material respects at and as of the Closing Time with the same force and effect as though newly made as of that date.

c. Covenants of Seller. Seller shall have performed in all material respects all of its obligations under this Agreement that by the terms of such obligations are to be performed on or before the Closing Time.

d. Releases. Purchaser will have received releases of all Encumbrances (other than Permitted Encumbrances) as required to be provided in Section 8.2g.

e. Officer's Certificates.

(i) Purchaser shall have received a certificate duly executed by Seller, in a form reasonably satisfactory to Purchaser, to the effect that each of the conditions specified in Section 7.3b, Section 7.3c and Section 7.3d have been satisfied.

(ii) Purchaser shall have received a certificate duly executed by an authorized officer of Seller certifying that the officers of Seller who execute this Agreement and the other Transaction Documents on behalf of Seller have the proper authority to execute such documents.

f. Required Consents. Each Purchaser Required Consent and each Seller Required Consent shall have been obtained, be in full force and effect and be in a form satisfactory to Purchaser (which approval of Purchaser shall not be unreasonably withheld, conditioned or delayed).

g. Material Adverse Effect. Neither (i) a Seller Material Adverse Effect or (ii) an Asset Material Adverse Effect shall have occurred and not be cured by the Closing Time.

## **ARTICLE 8**

### **CLOSING**

8.1 Closing. The consummation of the Transactions (the "Closing") shall take place at such date and time as may be mutually agreed upon by Purchaser and Seller (the "Closing Time").

8.2 Seller's Deliveries. At or prior to the Closing, Seller shall deliver to Purchaser the Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances), and the following:

a. Bill of Sale. The Bill of Sale, duly executed by Seller.

b. Real Property. For the Owned Real Property and the Easements, a recordable limited warranty deed subject to the Permitted Encumbrances (the “Deed”) substantially in the form of Exhibit C, and a recordable Easement Assignment, both executed by Seller, with all appropriate notarizations and certifications as required by the applicable Governmental Body.

c. Assignment. The Assignment and Assumption Agreement, duly executed by Seller, together with other agreements, instruments, certificates and other documents necessary to assign all of Seller’s rights and interests in and to the Acquired Assets to Purchaser.

d. Fuel Supply Agreement. The Fuel Supply Agreement, duly executed by Seller.

e. Road Easement Agreement. The Road Easement Agreement, duly executed by Seller.

f. FIRPTA. A non-foreign affidavit of Seller (and/or its tax-paying parent if Seller is a disregarded entity under the Code) dated as of the Closing Time in form and substance as required under the Treasury regulations issued pursuant to Section 1445 of the Code.

g. Release of Encumbrances. Duly executed copies of all agreements, instruments, certificates and other documents necessary or appropriate, to release any and all Encumbrances against the Acquired Assets, other than Permitted Encumbrances.

h. Other Instruments. To Purchaser, such other endorsements, assignments, certificates, documents and instruments as may be reasonably requested by Purchaser to consummate the Transactions, each in form and substance reasonably satisfactory to Purchaser.

8.3 Purchaser’s Deliveries. At or prior to the Closing, Purchaser shall deliver to Seller or such other Persons as set forth below:

a. Purchase Price. To Seller, the Purchase Price (as adjusted pursuant to Section 6.8) by immediately available funds via wire transfer pursuant to instructions provided by Purchaser prior to the Closing Time.

b. Assignment and Assumption Agreement and Easement Assignment. To Seller, the Assignment and Assumption Agreements pertaining to the Assumed Liabilities and the Easement Assignment, in each case duly executed by Purchaser.

c. Fuel Supply Agreement. The Fuel Supply Agreement, duly executed by Purchaser.

d. Road Easement Agreement. The Road Easement Agreement, duly executed by Purchaser.

e. Other Documents and Instruments. To Seller, such other endorsements, assignments, assumptions, certificates, instruments and documents as may be reasonably requested by Seller to consummate the Transactions, each in form and substance reasonably satisfactory to Seller.

**ARTICLE 9**  
**TERMINATION AND AMENDMENT**

9.1 Termination. This Agreement may be terminated at any time prior to Closing:

a. by the mutual written consent of Seller and Purchaser;

b. by Seller in the event:

(i) Purchaser breaches any representation, warranty or agreement contained in this Agreement, which breach has not been cured within thirty (30) days after receiving written notice from Seller;

(ii) the Transactions will not have been consummated on or before December 31, 2017, effective immediately upon receipt of notice to Purchaser, which notice may be served at Seller's election, in its sole discretion and without further explanation; *provided, however*, that Seller will not be entitled to terminate this Agreement pursuant to this Section 9.1b(ii) if Seller's failure to comply fully with its obligations under this Agreement has prevented the consummation of the Transactions; or

(iii) a Law or Governmental Order will have been enacted, entered, enforced, promulgated, issued or deemed applicable to the Transactions by any Governmental Body that prohibits the Closing.

c. by Purchaser in the event:

(i) Seller breaches any representation, warranty or agreement contained in this Agreement, which breach has not been cured within thirty (30) days after receiving written notice from Purchaser, or if Seller has not requested the approval noted in Section 6.4(d) by July 15, 2017;

(ii) the Transactions will not have been consummated on or before December 31, 2017, effective immediately upon receipt of notice to Seller, which notice may be served at Purchaser's election, in its sole discretion and without further explanation; *provided, however*, that Purchaser will not be entitled to terminate this Agreement pursuant to this Section 9.1c(ii) if Purchaser's failure to comply fully with its obligations under this Agreement has prevented the consummation of the Transactions; or

(iii) a Law or Governmental Order will have been enacted, entered, enforced, promulgated, issued or deemed applicable to the Transactions by any Governmental Body that prohibits the Closing.

9.2 Effect of Termination. If this Agreement is terminated pursuant to Section 9.1, this Agreement shall become void and of no further force or effect (except for the provisions of Section 6.5, Article 9 and Article 11, all of which shall continue in full force and effect).

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**ARTICLE 10**  
**SURVIVAL AND INDEMNIFICATION**

10.1 Survival of Representations, Warranties and Covenants. Except as otherwise expressly set forth in the paragraph immediately below, the representations, warranties, covenants and agreements, including indemnification obligations in respect thereof, of the Parties in this Agreement shall survive the Closing for a period beginning on the Closing Date and ending on the date that is [REDACTED] years after the Closing Date (the ending date of such period, the “Claim Deadline Date”). No claim shall be made or payable in respect of any such representations, warranties, covenants or agreements, including, no claim shall be made or payable in respect of indemnification obligations, after the applicable Claim Deadline Date, except (i) for those made and/or payable in respect of the representations, warranties, covenants and agreements, including indemnification obligations in respect thereof, set forth in the paragraph immediately below that are to survive the Closing indefinitely, and (ii) with respect to claims made prior to such Claim Deadline Date, but not then resolved (such representation, warranty, covenant or agreement surviving with respect to such claim solely until resolution of such claim). In respect of claims in this paragraph to which the Claim Deadline Date applies, if a claim notice is given in accordance with the terms hereof prior to the Claim Deadline Date, the claim shall continue indefinitely until such claim is finally resolved in accordance with the terms of this Agreement.

Notwithstanding the foregoing paragraph, the following representations, warranties, covenants and agreements, including any indemnification obligations in respect thereof, shall survive the Closing indefinitely: (a) the representations and warranties contained in Sections 4.1, 4.2, 4.4, and 4.5 and Sections 5.1, 5.2, and 5.4, (b) any indemnification obligations related to fraud or intentional misrepresentation, including the indemnification obligations set forth in Sections 10.2a.(iii) and 10.6a.(iii), (c) the covenants and agreements, including any indemnification obligations, related to the Retained Liabilities, the Assumed Liabilities and the Assumed Environmental Liabilities, including the indemnification obligations set forth in Sections 10.2a(iv) and 10.6a(iv), (d) the indemnification obligations related to Purchaser’s activities on the Acquired Assets set forth in Section 6.3, and (e) the indemnification obligations related to Taxes set forth in Section 6.7. Additionally, notwithstanding the foregoing paragraph, the covenants, agreements, acknowledgements and disclaimers set forth in Sections 4.8 and 5.9, including, disclaimers of representations and warranties, and the covenant, agreement, acknowledgement and disclaimer that the Acquired Assets are being conveyed in their present condition (including, environmental condition) “AS IS, WHERE IS, WITH ALL FAULTS, shall survive the Closing indefinitely.

10.2 Seller’s Obligation to Indemnify.

a. Subject to the terms, conditions, and limitations set forth in this Article 10, Seller shall indemnify and hold harmless Purchaser and its directors, officers, members, employees, agents and representatives (collectively, the “Purchaser Indemnified Person”) from and against any and all Damages suffered or incurred by any Purchaser Indemnified Person based upon, arising out of, related to or otherwise in respect of:

(i) any breach or inaccuracy of any representation or warranty of Seller contained in this Agreement or any Transaction Document;

(ii) any breach of or nonfulfillment of any covenant or agreement of Seller in this Agreement or in any Transaction Document;

(iii) fraud or intentional misrepresentation by Seller in connection with the Transactions or pursuant to this Agreement or the other Transaction Documents; and

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(iv) the Retained Liabilities and/or the Excluded Assets.

10.3 Limitations on Indemnification Obligations.

a. Indemnity Basket. Notwithstanding anything to the contrary contained herein (but subject to the sentence immediately following below)), Seller shall not have any obligation to indemnify any of Purchaser Indemnified Persons pursuant to Section 10.2a(i) and Section 10.2a(ii), unless and until Purchaser shall have incurred, on a cumulative basis, aggregate Damages in an amount exceeding [REDACTED] (the “Basket”), in which event the obligation of Seller to indemnify shall apply to all Damages incurred above the amount of the Basket. Notwithstanding anything to the contrary in the preceding sentence, the Basket shall not apply (i) to any Damages related to breaches of Sections 4.1 or 4.2 or to breaches of Section 6.7 (as set forth therein), and the obligation of Seller to indemnify Purchaser with respect to such matters shall apply to all Damages incurred from the first dollar, or (ii) to the agreed allocation of costs and expenses for Remediation of any Pipeline Area Environmental Contamination set forth in Section 10.7(a). For purposes of this Article Ten, the amount (but not the existence) of any Damages for which a Purchaser Indemnified Person is entitled to indemnification shall be determined, in each case, as if any qualifications or exceptions contained therein based on materiality (including any qualifications related to the presence or absence of a Material Adverse Effect and any usages of “material,” “in all material respects,” “in any material respect,” “would not be material,” “would not reasonably be expected to be material,” or similar qualifiers) were not included in any representation, warranty or covenant in this Agreement or in any certificate furnished by or on behalf of Seller to Purchaser pursuant to this Agreement.

b. Limited to Cap. Notwithstanding anything to the contrary contained herein, and except for those Retained Liabilities identified in subsections (i) and (ii) of Section 2.3b, in no event shall Seller’s liability hereunder for any and all obligations for Damages, payments or reimbursements under this Article 10, including indemnification obligations, to Purchaser and to Purchaser Indemnified Persons exceed, in the aggregate, the Purchase Price. Notwithstanding anything to the contrary contained herein, and except for the Assumed Liabilities and the Assumed Environmental Liabilities, in no event shall Purchaser’s liability hereunder for any and all obligations for Damages, payments or reimbursements under this Article 10, including indemnification obligations, to Seller and to Seller Indemnified Persons exceed, in the aggregate, the Purchase Price. For the sake of clarity, the Parties acknowledge that this Section 10.3(b) does not relate to or affect any personal claim (i.e., claims not made through, under, or on behalf of either Party, and not made under this Agreement) made by or for any individual that is included within the terms Purchaser Indemnified Person or Seller Indemnified Person.

c. Limitation on Types of Damages. No Party shall be liable to the other Party for special, punitive, exemplary, incidental, consequential or other indirect damages, or lost profit or losses calculated by reference to any multiple of earnings, or earnings before interest, tax, depreciation (or any other valuation methodology), whether based on contract, tort, strict liability or otherwise for any matter relating to this Agreement and the Transactions contemplated herein, *provided, however*, that if a Party is held liable to a third party for any such damages and the other Party is obligated to indemnify such Party for the matter that gave rise to such damages, then the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages.

d. Reduction in Damages. Each Party shall use Commercially Reasonable Efforts to mitigate any Damages which it seeks to recover pursuant to this Article 10. With respect to

any claims related to title with respect to the Real Property, Purchaser shall make a claim against any title policy that has been issued in favor of Purchaser before initiating any indemnifiable claims against Seller under this Article 10. If Purchaser or Seller receives any payment from the title insurer related to such Damages (“Claim Reduction Payment”), prior to Purchaser recovering amounts from Seller with respect to such Damages pursuant to this Article 10, then such Claim Reduction Payment shall offset any Damages that Purchaser may recover against Seller for such claim.

10.4 Claims by Purchaser for Third Party Claims.

a. If any claim by Purchaser hereunder results from any claim or Proceeding by a third party (including a Governmental Body) (a “Third Party Claim”), then Purchaser shall give Seller written notice thereof (together with a copy of such Third Party Claim, process or other legal proceeding) promptly after becoming aware of such Third Party Claim and in no event later than 30 days after Purchaser becomes aware of such Third Party Claim; *provided, however*, that the failure of Purchaser to give such notice shall not impair the rights of Purchaser under this Article 10, except to the extent that Seller is actually prejudiced by such failure to give notice. Such notice shall describe such Third Party Claim in reasonable detail.

b. Seller may elect to defend any Third Party Claim against Purchaser through counsel chosen by Seller (which counsel shall be reasonably acceptable to Purchaser).

(i) If Seller desires to defend a Third Party Claim then, within ten (10) Business Days after receiving notice from Purchaser of such Third Party Claim, Seller shall notify Purchaser of its intent to do so, and Purchaser shall promptly thereafter make available to Seller such books, records and other documents as well as access to representatives of Purchaser, as in each case is reasonably requested, and shall otherwise cooperate and cause its representatives to cooperate (including providing testimony) in the defense of such Third Party Claim (Purchaser shall not be required to take any action which would constitute or result in a waiver of the attorney-client privilege and Purchaser shall not be required to supply Seller with any information which Purchaser is under a legal obligation not to supply); provided that pending such notice and assumption of defense, Purchaser may take such steps to defend against such Third Party Claim as, in Purchaser’s good-faith judgment, are appropriate to protect its interests.

(ii) After notice from Seller to Purchaser of its election to assume the defense of a Third Party Claim, Purchaser shall not be entitled to reimbursement of any legal or other expenses subsequently incurred by Purchaser in connection with the defense thereof.

(iii) If Seller elects to defend the Third Party Claim, no compromise or settlement thereof may be effected by Seller without the consent of Purchaser (which shall not be unreasonably withheld, conditioned or delayed) unless the sole relief provided is monetary damages paid by Seller.

c. If Seller elects not to defend a Third Party Claim, then Purchaser may defend, compromise, and settle such Third Party Claim; *provided, however*, that, Purchaser may not compromise or settle any such Third Party Claim without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

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d. Any obligations of Seller under this Article 10 in respect of Third Party Claims of Purchaser shall be subject to the terms, conditions, caps and limitations described in Section 10.3 and in Section 10.7(a).

10.5 [Reserved].

10.6 Obligation of Purchaser to Indemnify.

a. Purchaser shall indemnify and hold harmless Seller, its Affiliates and its and their respective directors, officers, shareholders, employees, agents, representatives and assigns (each, a “Seller Indemnified Person”) from and against any and all Damages suffered or incurred by any Seller Indemnified Person based upon, arising out of, related to or otherwise in respect of:

(i) any breach or inaccuracy of any representation or warranty of Purchaser in this Agreement or any Transaction Documents;

(ii) any breach of or nonfulfillment of any covenant or agreement of Purchaser in this Agreement or any Transaction Document;

(iii) fraud or intentional misrepresentation by Purchaser in connection with the Transactions, or pursuant to this Agreement or the other Transaction Documents; and

(iv) the Assumed Liabilities or, subject to Seller’s reimbursement obligation expressly set forth under Section 10.7(a) below, the Assumed Environmental Liabilities.

10.7 Remediation and Assumed Environmental Liabilities.

a. At Closing, Purchaser agrees to assume all Claims caused by, arising out of, relating to or in respect of the Assumed Environmental Liabilities. Should any Remediation of Pipeline Area Environmental Contamination be required by any Governmental Body or any Governmental Order, Purchaser shall perform such Remediation, but only pursuant to plans that have been approved in writing by Seller, such approval not to be unreasonably withheld. Purchaser shall pay the first [REDACTED] of costs and expenses actually incurred by Purchaser directly for the required Remediation of any Pipeline Area Environmental Contamination. Seller shall reimburse Purchaser for the costs and expenses actually incurred by Purchaser directly for the required Remediation of any Pipeline Area Environmental Contamination in excess of the first [REDACTED] but only up to a maximum amount of [REDACTED] and Purchaser shall pay all costs and expenses in excess of [REDACTED] and any other additional costs and expenses associated with the Remediation of any Pipeline Area Environmental Contamination. Purchaser shall provide documentation of all such costs and expenses acceptable to Seller in its reasonable determination. Seller’s reimbursement obligations under this Section 10.7(a) shall cease upon Seller’s payment of this amount to Purchaser, up to a maximum of [REDACTED]. Notwithstanding anything to the contrary in this Section 10.7(a), however, before making any claim against Seller for reimbursement of any Remediation costs incurred by Purchaser, Purchaser shall first exhaust any and all rights and remedies it may have against third parties pursuant to the terms of the Easements or otherwise. The provisions of this Section 10.7(a) set forth the sole obligation of

Seller and the sole and exclusive remedy of Purchaser with respect to any Pipeline Area Environmental Contamination.

b. At Closing, Seller will retain responsibility for the Remediation of PCB Contamination and the PFC Contamination in accordance with and subject to the terms of this Agreement, at Seller's cost. Seller's access rights to the Owned Real Property for purposes of physically performing such Remediation are as detailed in the Deed.

10.8 Claims by Seller for Third Party Claims.

a. If any claim by Seller hereunder results from any Third Party Claim, then Seller shall give Purchaser written notice thereof (together with a copy of such Third Party Claim, process or other legal proceeding) promptly after becoming aware of such Third Party Claim and in no event later than 30 days after Seller becomes aware of such Third Party Claim; provided, however, that the failure of Seller to give such notice shall not impair the rights of Seller under this Article 10, except to the extent that Purchaser is actually prejudiced by such failure to give notice. Such notice shall describe such Third Party Claim in reasonable detail.

b. Purchaser may elect to defend any Third Party Claim against Seller through counsel chosen by Purchaser (which counsel shall be reasonably acceptable to Seller).

(i) If Purchaser desires to defend a Third Party Claim then, within ten (10) Business Days after receiving notice from Seller of such Third Party Claim, Purchaser shall notify Seller of its intent to do so, and Seller shall promptly thereafter make available to Purchaser such books, records and other documents as well as access to representatives of Seller, as in each case is reasonably requested, and shall otherwise cooperate and cause its representatives to cooperate (including providing testimony) in the defense of such Third Party Claim (Seller shall not be required to take any action which would constitute or result in a waiver of the attorney-client privilege and Seller shall not be required to supply Purchaser with any information which Seller is under a legal obligation not to supply); provided that pending such notice and assumption of defense, Seller may take such steps to defend against such Third Party Claim as, in Seller's good-faith judgment, are appropriate to protect its interests.

(ii) After notice from Purchaser to Seller of its election to assume the defense of a Third Party Claim, Seller shall not be entitled to reimbursement of any legal or other expenses subsequently incurred by Seller in connection with the defense thereof.

(iii) If Purchaser elects to defend the Third Party Claim, no compromise or settlement thereof may be effected by Purchaser without the consent of Seller (which shall not be unreasonably withheld, conditioned or delayed) unless the sole relief provided is monetary damages paid by Purchaser.

c. If Purchaser elects not to defend a Third Party Claim, then Seller may defend, compromise, and settle such Third Party Claim; *provided, however*, that, Seller may not compromise or settle any such Third Party Claim without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

d. Any obligations of Purchaser under this Article 10 in respect of Third Party Claims of Seller shall be subject to the terms, conditions, caps and limitations described in Section 10.3 and in Section 10.7.

10.9 Exclusive Remedy. Seller and Purchaser acknowledge and agree that the rights and remedies (including indemnities) expressly set forth in this Article 10 shall be the exclusive remedy of each of Purchaser and Seller against the other for Damages incurred or suffered with respect to this Agreement and the other Transaction Documents. Notwithstanding the foregoing, nothing in this Agreement shall in any way prevent or limit a Party's claim for fraud or intentional misrepresentation, or any Person's remedies for fraud or intentional misrepresentation.

**ARTICLE 11**  
**MISCELLANEOUS**

11.1 Communications. Any notice, request, instruction, correspondence or other document to be given hereunder by a Party to another Party (herein collectively called "Notice") shall be in writing and delivered in person or by courier service requiring acknowledgment of receipt of delivery or mailed by certified mail, postage prepaid and return receipt requested, or by facsimile (confirmed by appropriate answer back), as follows:

If to Seller, addressed to:

Northern States Power Company  
401 Nicollet Mall, 4th Floor  
Minneapolis, MN 55401-1927  
Attention: Jerry Dittmann  
Facsimile (612) 215-4575

With a copy to:

Xcel Energy  
1800 Larimer Street, Suite 1100  
Denver, CO 80202  
Attention: Timothy W. Dowdy, Assistant General Counsel  
Facsimile (303) 294-2988

and a copy to:

Faegre Baker Daniels LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402-3901  
Attention: Paul S. Moe  
Facsimile No.: (612) 766-1600

If to Purchaser, addressed to:

Flint Hills Resources Pine Bend, LLC  
4123 East 37<sup>th</sup> Street North  
Wichita, KS 67220  
Attn.: Exec. VP-Operations  
Facsimile No.: (316) 828-8748

All notices and other communications required or permitted under this Agreement that are addressed as provided in this Section 11.1: (i) if delivered personally against proper receipt or by confirmed electronic mail delivery, shall be effective upon delivery; and (ii) if delivered (A) by certified or registered mail with postage prepaid, shall be effective five (5) Business Days or (B) by an internationally recognized overnight express mail service such as Federal Express, UPS, or DHL Worldwide, with courier fees paid by the sender, shall be effective two (2) Business Days, in each case following the date when mailed or couriered, as the case may be. A Party may from time to time change its address for the purposes of Notice to such Party by a similar Notice specifying a new address, but no such change shall be deemed to have been given until it is actually received by the Party sought to be charged with its contents.

11.2 Succession and Assignment. This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Neither Purchaser nor Seller may assign this Agreement or any of its rights, interest or obligations hereunder without the prior written approval of the other. Any assignments made in contravention of the terms of this Section 11.2 shall be void *ab initio*.

11.3 Governing Law. This Agreement, the other Transaction Documents, and the legal relations between the Parties hereto shall be governed and interpreted in accordance with the laws of the State of Minnesota (provided that, the validity and enforceability of all conveyance documents or instruments executed and delivered pursuant to this Agreement insofar as they affect title to real property shall be governed by and construed in accordance with the Laws of the jurisdiction in which such property is located) without regard to principles of conflicts of law, except to the extent that United States bankruptcy law is applicable.

11.4 Consent to Jurisdiction. Each Party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts in or for Hennepin County in the State of Minnesota (the “Minnesota Courts”) in any action arising out of or relating to this Agreement or any other Transaction Document, and each such Party hereby irrevocably agrees that all Claims in respect of any such action shall be heard and determined in Minnesota Courts. Each Party, to the extent permitted by applicable Law, hereby expressly waives any defense or objection to jurisdiction or venue based on the doctrine of *forum non conveniens*, and stipulates that the Minnesota Courts shall have *in personam* jurisdiction and venue over such Party for the purpose of litigating any dispute or controversy between the Parties arising out of or relating to this Agreement or any other Transaction Document. In the event that either Party shall commence or maintain any action arising out of or relating to this Agreement or any other Transaction Document in a forum other than Minnesota Courts, the other Party shall be entitled to request the dismissal or stay of such action, and each Party stipulates for itself that such action shall be dismissed or stayed. To the extent that either Party has or hereafter may acquire any immunity from the jurisdiction of Minnesota Courts or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution or otherwise) with respect to itself or its property, each such Party hereby irrevocably waives such immunity to the extent relating to any dispute or controversy between the Parties arising out of or relating to this Agreement or any other Transaction Document.

11.5 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER TRANSACTION DOCUMENTS. EACH PARTY HERETO: (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS

AGREEMENT AND THE OTHER TRANSACTION DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.5.

11.6 Entire Agreement. This Agreement and the other Transaction Documents, each of which are incorporated herein, embody the entire agreement and understanding between the Parties hereto with respect to the subject matter hereof and supersede all prior agreements, commitments, arrangements, negotiations or understandings, whether oral or written, between the Parties hereto or any representatives of any of them with respect thereto. There are no agreements, covenants or understandings with respect to the subject matter of this Agreement and the other Transaction Documents, other than those expressly set forth or referred to herein or therein and no representations or warranties of any kind or nature, whatsoever, express or implied, have been made or shall be deemed to have been made by the Parties hereto except those expressly made in this Agreement.

11.7 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law in any jurisdiction, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction in such manner as will effect as nearly as lawfully possible the purposes and intent of such invalid, illegal or unenforceable provision. To the extent permitted by Law, the Parties hereto waive any provision of Law that renders any such provision prohibited or unenforceable in any respect.

11.8 No Third Party Beneficiaries. Except as and to the extent otherwise provided herein, nothing in this Agreement is intended, nor shall anything herein be construed, to confer any rights, legal or equitable, in any Person other than the Parties hereto and their respective successors and permitted assigns.

11.9 Exhibits, Appendices and Schedules. All appendices, exhibits, and schedules hereto, or other documents expressly referenced in and incorporated into this Agreement, are hereby incorporated into this Agreement and are hereby made a part hereof as it set out in full in this Agreement.

11.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. Any counterpart may be executed by facsimile signature and such facsimile signature shall be deemed an original.

11.11 Headings. The headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

11.12 No Rule of Construction. All of the Parties have been represented by counsel in the negotiation and preparation of this Agreement and the other Transaction Documents; therefore, this Agreement and each of the other Transaction Documents shall be deemed to be drafted by each of the Parties hereto, and no rule of construction will be invoked respecting the authorship of this Agreement.


11.13 Expenses. Purchaser, on the one hand, and Seller, on the other hand, shall bear all of its or their respective expenses in connection with the preparation, negotiation, execution, delivery and performance of this Agreement and the Transactions, except as expressly set forth in this Agreement.

*[Remainder of Page Intentionally Blank; Signature Pages to follow]*

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the Execution Date.

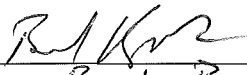
**SELLER:**

**NORTHERN STATES POWER COMPANY**

By:   
Name: Christopher B. Clark  
Title: President

**PURCHASER:**

**FLINT HILLS RESOURCES PINE BEND,  
LLC**

By:   
Name: Brad Rezwik  
Title: Pres, Genl & CEO HED

## EXHIBIT A

### Form of Assignment and Assumption Agreement

#### ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment”) is made as of \_\_\_\_\_, 2017, by and between NORTHERN STATES POWER COMPANY, a Minnesota corporation (“Assignor”), and FLINT HILLS RESOURCES PINE BEND, LLC, a Delaware limited liability company (“Assignee”).

#### RECITALS

1. Assignor and Assignee have entered into that certain Asset Purchase Agreement dated \_\_\_\_\_, 2017 (the “APA”), pursuant to which Assignor has agreed to convey to Assignee all of Assignor’s right, title and interest in and to certain real, personal and intangible property in Dakota County, Minnesota, as further described in the APA.

2. Assignor desires to assign to Assignee, to the extent assignable, all of Assignor’s right, title and interest in and to the Acquired Assets, the Assumed Liabilities and the Assumed Environmental Liabilities, and Assignee desires to accept the assignment of such right, title and interest in and to the Acquired Assets, the Assumed Liabilities and the Assumed Environmental Liabilities, and to assume the Assumed Liabilities and the Assumed Environmental Liabilities.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained and for other good and valuable consideration, the parties do hereby agree as follows:

1. Capitalized terms used but not defined herein shall have the meanings assigned to them in the APA.

2. Assignor hereby assigns, sells, transfers, and sets over to Assignee, its successors and assigns, to the extent assignable, all of Assignor’s right, title and interest in and to the Acquired Assets, the Assumed Liabilities and the Assumed Environmental Liabilities. Assignee hereby accepts the foregoing assignment and transfer and agrees to assume, fulfill, perform and discharge the Assumed Liabilities and the Assumed Environmental Liabilities.

3. This Assignment is made without representation, warranty (express or implied) or recourse of any kind, except as may be expressly provided herein or in the APA.

4. This Assignment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Assignment may be executed in one or more counterparts, each of which shall be deemed to be an original Assignment, but all of which shall constitute but one and the same Assignment. This Assignment shall be governed by, and construed under, the laws of the State of Minnesota.

*[The remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, Assignor and Assignee hereby execute and deliver this Assignment as of the date first written above.

ASSIGNOR:

**NORTHERN STATES POWER COMPANY, a**  
Minnesota corporation

By: \_\_\_\_\_  
Name: Christopher B. Clark  
Title: President – NSP Minnesota

And by: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant Corporate Secretary

ASSIGNEE:

**FLINT HILLS RESOURCES PINE BEND, LLC, a**  
Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT B**

**Form of Bill of Sale**

**BILL OF SALE**

**NORTHERN STATES POWER COMPANY**, a Minnesota corporation ("Seller"), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, bargains, sells, transfers and delivers to **FLINT HILLS RESOURCES PINE BEND, LLC**, a Delaware limited liability company ("Purchaser"), all of Seller's right, title and interest in and to all Acquired Assets, as that term is defined in that certain Asset Purchase Agreement dated \_\_\_\_\_, 2017 (the "APA"), pursuant to which Assignor has agreed to convey to Assignee all of Assignor's right, title and interest in and to certain real, personal and intangible property in Dakota County, Minnesota, as further described in the APA.

Seller makes no representation or warranty to Purchaser, express or implied, in connection with this Bill of Sale or the sale, transfer and conveyance made hereby, except as expressly provided for herein or in the APA.

EXECUTED to be effective as of \_\_\_\_\_, 2017.

**NORTHERN STATES POWER COMPANY**, a  
Minnesota corporation

By: \_\_\_\_\_  
Name: Christopher B. Clark  
Title: President – NSP Minnesota

And by: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant Corporate Secretary

**EXHIBIT C**

**Form of Deed**

(Top 3 inches reserved for recording data)

**LIMITED WARRANTY DEED**

**Business Entity to Business Entity**

eCRV number: \_\_\_\_\_

DEED TAX DUE: \$ \_\_\_\_\_

DATE: \_\_\_\_\_, 2017

FOR VALUABLE CONSIDERATION, **NORTHERN STATES POWER COMPANY**, a corporation under the laws of Minnesota ("Grantor"), hereby conveys and quitclaims to **FLINT HILLS RESOURCES PINE BEND, LLC**, a limited liability company under the laws of Delaware ("Grantee"), real property in Dakota County, Minnesota, legally described as follows:

See Exhibit A attached hereto and incorporated herein

Check here if all or part of the described real property is Registered (Torrens) ☒

together with all hereditaments and appurtenances belonging thereto.

RESERVING, HOWEVER, TO THE GRANTOR an easement for access onto the property conveyed hereby (the "Property") by Grantor and its contractors, agents and employees, at reasonable times upon reasonable notice to Grantee (or its successors/assigns), for purposes of investigating any environmental contamination for which Grantor has responsibility (if any) pursuant to the Asset Purchase Agreement with Grantee dated \_\_\_\_\_, 2017, and performing remediation actions relating thereto. To the extent the exercise of such access rights causes any damage to the Property or improvements thereon, Grantor or its contractors or agents will, without unreasonable delay, restore or repair such damage. Grantor and its contractors and agents will make reasonable efforts to not unreasonably interfere with the use and operation of the Property during such investigation/remediation operations, and Grantor and its contractors and agents will not have the right to require Grantee to move any improvements on the Property or cease any operations on the Property. Grantor and its contractors and agents will comply with Grantee's reasonable safety rules relating to the Property that are made known to Grantor and its contractors and agents. Grantor will defend, indemnify, and hold Grantee harmless from and against any and all liability, damages, and costs (including reasonable attorneys' fees) arising out of Grantor's exercise of the rights granted in this paragraph, except to the extent caused by the negligence or breach of Grantee or its contractors.

This Deed conveys after-acquired title. Grantor warrants that Grantor has not done or suffered anything to encumber the property, EXCEPT:

Those matters set forth on Exhibit B.

Check applicable box:

- ☒ The Seller certifies that the Seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: [...].)
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

Grantor

**NORTHERN STATES POWER COMPANY**

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

Christopher B. Clark  
President – NSP Minnesota

And by: \_\_\_\_\_

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

Its Assistant Corporate Secretary

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by Christopher B. Clark and \_\_\_\_\_, the President – NSP Minnesota and Assistant Corporate Secretary, respectively, of Northern States Power Company, a corporation under the laws of Minnesota, on behalf of such corporation.

(Stamp)

\_\_\_\_\_  
(signature of notarial officer)

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
(month/day/year)

AGREED TO AND ACCEPTED:

Grantee

FLINT HILLS RESOURCES PINE BEND, LLC

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

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

Its: \_\_\_\_\_

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by \_\_\_\_\_, the  
\_\_\_\_\_ of Flint Hills Resources Pine Bend, LLC, a limited liability company under the laws of  
Delaware, on behalf of such limited liability company.

(Stamp)

\_\_\_\_\_  
(signature of notarial officer)

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:

Paul S. Moe  
Faegre Baker Daniels LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402

TAX STATEMENTS FOR THE REAL PROPERTY  
DESCRIBED IN THIS INSTRUMENT SHOULD BE SENT  
TO:

Flint Hills Resources Pine Bend, LLC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXHIBIT A

### Legal Description of the Property

Lot 1, Block 1, Inver Hills Tank Farm, according to the recorded plat thereof, Dakota County, Minnesota.

EXHIBIT B

Permitted Exceptions

1. The lien of real estate taxes not yet due and payable.
2. Levied and pending special assessments, if any.
3. Utility and drainage easements of record.
4. Building and zoning laws, ordinances and state and federal regulations.
5. Restrictions relating to use or improvement of the Property.
6. Reservation of any mineral rights to the State of Minnesota.
7. Transmission Easement in favor of United Power and Land dated \_\_\_\_\_, 2017 and recorded \_\_\_\_\_, 2017, as County Recorder Document No. \_\_\_\_\_ and as Registrar of Titles Document No. \_\_\_\_\_.
8. Electric Easement in favor of United Power and Land dated \_\_\_\_\_, 2017 and recorded \_\_\_\_\_, 2017, as County Recorder Document No. \_\_\_\_\_ and as Registrar of Titles Document No. \_\_\_\_\_.
9. [Road] Easement Agreement dated \_\_\_\_\_, 2017 and recorded \_\_\_\_\_, 2017, as County Recorder Document No. \_\_\_\_\_ and as Registrar of Titles Document No. \_\_\_\_\_, pursuant to which Northern States Power Company grants to Flint Hills Resources Pine Bend, LLC, an easement over adjacent property for access to the Property.
10. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Easement Agreement dated May 26, 1977, recorded June 22, 1977, as County Recorder Document No. 491140 and as Registrar of Titles Document No. 89431.
11. As amended by the Assignment of Rights of Way in favor of Wood River Pipeline Company, a Delaware corporation, dated December 1, 1981, recorded October 20, 1983, as County Recorder Document No. 132189 and as Registrar of Titles Document No. 637707;  
  
As amended the Assignment of Rights of Way in favor of Wood River Pipeline Company, a Delaware corporation, dated January 11, 1984, recorded March 3, 1992, as Document No. 1031109.
12. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Pipeline Agreement dated May 26, 1977, recorded June 22, 1977, as County Recorder Document No. 491139.
13. As amended by the Assignment of Rights of Way in favor of Wood River Pipeline Company, a Delaware corporation, dated December 1, 1981, recorded October 20, 1983, as County Recorder Document No. 132189 and as Registrar of Titles Document No. 637707;

As amended the Assignment of Rights of Way in favor of Wood River Pipeline Company, a Delaware corporation, dated January 11, 1984, recorded March 3, 1992, as Document No. 1031109.

14. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Easement Agreement dated November 17, 1993, recorded December 15, 1993, as County Recorder Document No. 1175558 and Registrar of Titles Document No. 292940.

15. Easement for pipeline purposes, together with any incidental rights, in favor of Minnesota Pipeline Company, a Delaware corporation, as contained in the Grant of Easement, dated April 23, 1955, recorded May 5, 1955, as County Recorder Document No. 236921, in Book 64 of Misc., Page 369.

As amended by Agreement Describing Easement dated October 16, 1964, recorded November 20, 1964, as County Recorder Document No. 314569, in Book 76 of Misc. Page 442.

16. Easement for pipeline purposes, together with any incidental rights, in favor of Aranco of Minnesota Inc., as contained in the Easement, dated June 7, 1968, recorded June 13, 1968, as County Recorder Document No. 349638.

17. Oil and Gas Lease dated May 28, 1934, recorded June 1, 1934, as County Recorder Document No. 135739, in Book 44 of Misc., Page 134.

18. Waiver Agreement between Northern States Power Company and City of Inver Grove Heights dated May 27, 2008, recorded July 29, 2008, as County Recorder Document No. 2605083.

19. Terms, conditions, easement, restrictions, covenants and provisions as contained in the Easement Agreement dated November 17, 1993, recorded December 15, 1993, as County Recorder Document No. 1175558 and Registrar of Titles Document No. 292940.

20. Terms, conditions, easement, restrictions, covenants and provisions as contained in the Final Certificate dated April 30, 1935, recorded May 9, 1935, as County Recorder Document No. 138864, in Book 44 of Misc., Page 600.

21. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Final Certificate dated January 12, 1956, recorded January 14, 1956, as County Recorder Document No. 242372, in Book 66 of Misc. Records, page 192.

22. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Final Certificate dated January 6, 1960, recorded February 11, 1960, as County Recorder Document No. 272050, in Book 268 of Deeds, Page 383.

23. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Final Certificate dated December 19, 2008, recorded January 27, 2009, as County Recorder Document No. 2633311 and as Registrar of Titles Document No. 638340.

24. Minnesota Department of Transportation Right of Way Plat No. 19-141 dated October 2, 2002, recorded October 25, 2002, as Registrar of Titles Document No.

479429 and as County Recorder Document No. 1952097; as amended by County Recorder Document No. 2566510.

25. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Slope Easement Agreement dated June 1, 1978, recorded June 11, 1978, as Registrar of Titles Document No. 98419.
26. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Roadway Easement dated September 26, 1994, recorded January 31, 1996, as Registrar of Titles Document No. 331765.
27. Solid Waste Disposal Site Location dated March 23, 1998, recorded April 9, 1998, as Registrar of Titles Document No. 371258.
28. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Easement Agreement dated April 1, 2001, recorded May 2, 2001, as Registrar of Titles Document No. 438711 and as County Recorder Document No. 1771033.
29. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Easement Agreement dated January 4, 2001, recorded May 2, 2001, as Registrar of Titles Document No. 438715.
30. Terms, conditions, easements, restrictions, covenants and provisions as contained in the Easement Agreement dated January 4, 201, recorded May 2, 2001, as Registrar of Titles Document No. 438716.
31. License Agreement in favor of Aranco of Minnesota, Inc., as evidenced by the Special Warranty Deed recorded as Document No. 372146.
32. Easement for sanitary sewer and other utilities over part of the subject property, in favor of LTJ Holdings, LLC, a Minnesota limited liability company, as set forth in Easement Agreement, dated July 21, 2009, filed August 20, 2009, as Document No. 2679613 (abstract) and as Document No. 649418 (Torrens).
33. Easement for sanitary sewer purposes, in favor of the City of Inver Grove Heights, as set forth in Sanitary Sewer Easement, dated October 25, 2010, filed January 25, 2011, as Document No. 278513 (abstract) and as Document No. 674816 (Torrens).

## EXHIBIT D

### Form of Fuel Supply Agreement

#### FUEL SUPPLY AGREEMENT

This Fuel Supply Agreement (the “**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between Flint Hills Resources, LP (“**FHR**” or “**Seller**”), Northern States Power Company, a Minnesota corporation (“**NSP**” or “**Buyer**”), and Flint Hills Resources Pine Bend, LLC (“**FHRPB**”), but shall not become effective unless and until FHRPB and NSP complete closing (the “**Closing**”) of the Asset Purchase Agreement transaction detailed below (the date of Closing to be the “**Effective Date**” of this Agreement).

#### BACKGROUND:

A. Concurrent with the execution of this Agreement, NSP and FHR’s affiliate, FHRPB, are executing that certain Asset Purchase Agreement (the “**APA**”) pursuant to which FHRPB agrees to purchase and NSP agrees to sell certain terminal assets which include, in part, three (3) 10,000,000-gallon aboveground storage tanks (the “**Tanks**”), the existing inventory in the Tank Facilities (defined below) (the “**Inventory**”), and related facilities, pipelines, and equipment (the Tanks and the related facilities, pipelines and equipment, as each now exists or as each may be replaced, repaired, relocated, modified, or improved in the future, and any new tanks or new related facilities, pipelines or equipment that may be installed or built in the future, are hereinafter collectively called the “**Tank Facilities**”), and certain real property upon which those Tank Facilities are located.

B. NSP is a regulated electric utility in the state of Minnesota and owns among its generation resources the Inver Hills peaking facility (“**Peaking Facility**”), a six unit dual fuel capable simple cycle power plant that offers black start capability to the Midcontinent Independent System Operator (“**MISO**”). As such, NSP is required to have readily available a back-up supply of fuel, so that a failure in supply of natural gas to the Peaking Facility does not render the facility unavailable. The Peaking Facility is located at 3185 117th Street East, Inver Grove Heights in Dakota County, Minnesota adjacent to and interconnected with the Tank Facilities. Following the Closing of the APA transaction, NSP will retain ownership of a portion of the pipeline that connects the Tank Facilities to such Peaking Facility (the “**NSP Pipeline**”).

C. The Tank Facilities will be connected to the NSP Pipeline at the point shown in Exhibit A attached hereto and made a part hereof (the “**Connection Point**”), being the final weld between the Tank Facilities and the NSP Pipeline at the point before the “T” of NSP Pipeline going into NSP’s fuel forwarding building.

D. FHR is a marketer of petroleum products, including diesel fuel. FHR wishes to sell and NSP wishes to purchase Product (as hereinafter defined) to be supplied to FHR by FHRPB from the Tanks and delivered from the Tanks directly into the NSP Pipeline in accordance with the terms and conditions hereof.

TRADE SECRET DATA SHADED

**THE AGREEMENT:**

For good and valuable consideration, including the terms and conditions herein and in the APA, the adequacy of which is hereby acknowledged by each, the parties hereby agree as follows:

1. Term. If the APA is terminated before Closing occurs, this Agreement will automatically be voided and will not become effective. Should Closing occur, this Agreement shall commence as of the Effective Date for an initial term ending December 31, 2017 (the “**Initial Term**”). The Agreement shall thereafter continue for up to nine (9) successive one-year terms (each annual renewal an “**Extension Term**”) until such time as NSP provides notice of termination to FHR no less than 180 days prior to expiration of the Initial Term or expiration of an Extension Term.

Notwithstanding that the paragraph immediately above contemplates that this Agreement may be extended only until December 31, 2026 at the latest, the parties recognize that NSP may be required by law, regulation, rule, order or otherwise to continue operating the Peaking Facility with black start capability in the year 2027 and perhaps beyond. In such event, and unless FHRPB has determined that it will no longer continue to operate the Tank Facilities beyond the year 2026 and has notified NSP of such event, then FHRPB and Seller agree to extending this Agreement until [REDACTED], as follows: In addition to the Extension Terms set forth in the paragraph immediately above, this Agreement may continue for up to [REDACTED] additional successive one-year Extension Terms, beginning January 1, 2027, until such time as NSP provides notice of termination to FHR no less than 180 days prior to the expiration of any additional Extension Term, so long as all of the following are met:

- a. NSP is required by law, regulation, rule, order or otherwise to continue operating the Peaking Facility with black start capability; and
- b. NSP provides one-year prior written notice to FHRPB and Seller that it must continue operating the Peaking Facility with black start capability beyond 2026; and,

Seller and FHRPB have not notified NSP that FHRPB does not intend to operate the Tank Facilities beyond December 31, 2026.

Seller and FHRPB agree to provide notice to NSP as soon as reasonably practical and in any case no later than December 31, 2025 in the event FHRPB does not intend to operate the Tank Facilities beyond December 31, 2026.

Seller agrees to sell Product to Buyer for so long as FHRPB continues to operate the Tank Facilities under any Extension Term.

In the event that Seller and FHRPB notify NSP prior to December 31, 2025 that FHRPB no longer will operate the Tank Facilities beyond December 31, 2026, then Seller will make commercially reasonable efforts to continue to supply Product to NSP via FHRPB truck rack, pipeline, or other mutually agreeable methods of fuel transportation, in accordance with the Product Price and Volume terms of this Agreement, for up to [REDACTED] additional successive one-year Extension Terms beginning January 1, 2027, until such time as NSP provides notice of

termination to FHR no less than 180 days prior to the expiration of any additional Extension Term.

Together, the Initial Term and any Extension Terms shall be known as the “**Term**” of this Agreement.

2. Product. The parties recognize that the Inventory at the time of Closing of the transaction contemplated by the APA may not meet the sulfur-content specification as required in this Agreement. Thus, excepting the Inventory, and excepting any commingled mixture of Inventory and Product (as defined below), FHR shall sell to NSP diesel grade No. 2-D S15 meeting the requirements of ASTM D975 *Standard Specification for Diesel Fuel Oils* (the “**Product**”). FHR warrants that the Product shall not contain biodiesel.

FHRPB shall, subject to the Planned Maintenance and Force Majeure provisions herein, supply Product to FHR from the Tanks in a manner and in quantities to permit FHR to meet its delivery and other obligations to NSP hereunder.

3. Supply Point, Delivery Point, Title and Risk of Loss. FHRPB shall supply the Product to Seller at a point immediately prior to the Connection Point. Title and risk of loss to the Product shall pass from FHRPB to Seller at this point. To the extent some portion of the Tank Facilities owned by FHRPB will be used by Seller in order to deliver the Product to NSP at the Connection Point, FHRPB grants unto Seller the right to use such portion of the Tank Facilities.

Immediately following taking title to the Product from FHRPB, Seller shall deliver the Product to NSP at the Connection Point. Title and risk of loss to the Product shall pass from Seller to NSP at the Connection Point. The Seller will be responsible for all arrangements and costs necessary to deliver Product to the Connection Point, and Buyer will be responsible for all arrangements and costs necessary to receive Product at the Connection Point.

4. Access Rights. FHRPB and NSP each grants to the other (and the contractors of either) the right of reasonable access to its property (using mutually agreed-upon ingress/egress routes) at and near the Connection Point for purposes relating to this Agreement, including, without limitation, access necessary for repairs and maintenance of the other party’s pipelines, equipment and facilities.

5. Measurement. Prior to Closing, NSP shall procure and install in its fuel forwarding building, and NSP shall thereafter throughout the term of this Agreement be responsible for the maintenance of, Meter(s) (as defined in ***Exhibit B***) used to measure the Product quantities delivered for sale under this Agreement. Seller agrees to reimburse Buyer for the Meters and any reasonable costs incurred in procuring the Meters. FHR and NSP agree that the estimated cost of the Meters is \$50,000, and in no event shall FHR reimburse any cost greater than \$60,000. All parties agree to abide by the terms of the measurement procedures found in Exhibit B.

6. Volume, Inventory and Electronic Access to Supply. (a) Except to the extent prevented by an event of Force Majeure or prevented due to Planned Maintenance affecting delivery hereunder, and as requested by NSP from time to time, FHR shall sell and deliver to

TRADE SECRET DATA SHADED

NSP an amount of Product at a rate of up to [REDACTED] in a 24-hour period (or such greater amount as mutually agreed by the Parties), up to 70,000 barrels (2,940,000 gallons) per calendar month (the “**Monthly Maximum Volume**”). Volumes requested by NSP in addition to the Monthly Maximum Volume may be provided by FHR as mutually agreed by the Parties with such additional volumes subject to the Product Price terms of this Agreement.

(b) FHRPB shall maintain, on a daily basis, an inventory in the Tanks of at least [REDACTED] of Product available to supply to FHR for delivery to Buyer. Availability of reserved product shall be subject to the Planned Maintenance provision, below.

(c) Buyer shall be provided electronic access to the supply of Product from the Tanks to the Connection Point at Buyer’s sole discretion for delivery of Product in accordance with the volume requirements of this Agreement. Subject to FHRPB’s right and obligation to properly operate and maintain the Tanks, FHRPB hereby grants unto Buyer the right to exercise electronic access to the supply of Product in the Tanks by use of any valves or other facilities or equipment, together with any other rights necessary or prudent, to permit Buyer to exercise such right of electronic access of supply.

7. Product Forecast. When volume requirements are known in advance, NSP shall provide FHR with a non-binding estimate of anticipated Product volume requirements prior to the next delivery month. In no event shall the amount of the estimate or the failure to provide an estimate in any given month act as a waiver or as a limitation on the volumes NSP may request under Section 6 above, or impose any liability upon NSP hereunder.

8. Reservation Fee. To ensure availability and delivery of reserved Product, NSP shall pay FHR an annual “**Reservation Fee**” applicable to the then current calendar year of service which shall be billed annually on January 1 and shall be paid within 30 days of receipt of invoice. Should the Effective Date fall on a date other than January 1, the Reservation Fee for the period commencing as of the Effective Date through December 31 of that same year (the “**Partial First Year**”) shall be prorated based on the number of days in that Partial First Year. The Reservation Fee shall be \$170,000 in calendar year 2017 (prorated for any Partial First Year), and thereafter shall be adjusted using the All Items Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average.

9. Product Price. All Product delivered to NSP shall be priced on the day of delivery based on the following formula, using then-effective pricing: [REDACTED]

[REDACTED]. Seller shall invoice Buyer for Product delivered and received and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. Payment is due upon 10 days of receipt of invoice.

10. Invoicing and Payment. Seller will invoice the Buyer as stated herein. Any amount not paid when due will accrue interest until paid at the lesser of the then effective Prime Rate as published by the *Wall Street Journal* plus two percent (2%) or the maximum rate allowed by

law. Invoices will be electronic by mutually agreed method.

11. Tank Facilities Required Maintenance. Maintenance, control and operation of the Tank Facilities will rest exclusively with FHRPB, who will comply with and provide all certifications required by law applicable to the ownership, control and operation of the Tank Facilities. FHRPB agrees to properly operate, maintain and repair the Tank Facilities during the Term hereof to permit deliveries to the Connection Point. FHRPB reserves the right to remove any portion of the Tank Facilities from service as required to perform maintenance, make improvements, or address any other operational or compliance issues deemed necessary in good faith by FHRPB ("**Planned Maintenance**"). As Planned Maintenance may impact the volume of Product delivered by FHR, the parties agree to work cooperatively as follows. For any Planned Maintenance anticipated to impact deliveries to NSP, FHR shall provide NSP with at least 60-days advanced notice, but if such 60-days advanced notice is not possible due to an event of Force Majeure, then FHR shall promptly notify NSP of any such Planned Maintenance. FHRPB will make commercially reasonable efforts to maintain an adequate supply of reserved Product in the Tanks to be available to NSP during any period of Planned Maintenance. FHRPB will use commercially reasonable efforts to limit Planned Maintenance that could affect delivery to NSP to the months of April through October to avoid interruption of delivery of Product during the winter season.

12. Adequate Assurance. If either Party ("X") has commercially reasonable grounds for insecurity regarding the performance of any obligation under this Agreement (whether or not then due) by the other Party ("Y"), X may demand Adequate Assurance of Performance in an amount determined by X in a commercially reasonable manner. "**Adequate Assurance of Performance**" shall mean sufficient security in the form, amount and for the term reasonably acceptable to X, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or a guaranty (including the issuer of any such security).

13. Taxes. Buyer will pay or remit to FHR, as appropriate, all taxes, levies, fees, surcharges, assessments and other charges of whatever kind imposed by any governmental authority, whether or not in existence at the time of this Agreement (collectively, "**Taxes**"), that are imposed on or with respect to the sale or withdrawal for delivery to, or purchase, use, or receipt by Buyer of Product delivered hereunder. To the extent Seller has then ascertained the amount of Taxes, Seller shall include such Taxes in Seller's invoice delivered to Buyer as provided in Section 8 above. If any Taxes that are payable by Buyer hereunder are paid by FHR, Buyer will promptly reimburse FHR for such Taxes (including interest and penalties, where applicable) on demand. Except as set forth above, each party will be liable for and pay all taxes imposed in connection with its business and on the assets owned by or otherwise belonging to such party.

If Buyer claims an exemption from any applicable Taxes, then Buyer, in lieu of payment or reimbursement of same to FHR (if required), will furnish FHR with a properly executed exemption certificate or other like documentation in the form prescribed by the appropriate taxing authority. Buyer will promptly notify FHR in writing of any change in the status of its exemption. If a fuel subject to excise taxes under Subtitle D of the Internal Revenue Code of

1986, as amended, is purchased by Buyer, Buyer will supply to FHR a completed and signed original Notification Certificate of Taxable Fuel Registrant as required by Treasury Regulations Section 48.4081-5, or successor provisions thereto, or any other certificate required to be issued by Buyer under applicable Treasury regulations in connection with the purchase of Product from FHR. Buyer will further certify to FHR in accordance with applicable law or in a manner agreed upon by the parties that it holds the applicable state tax registrations to transact in the Product purchased hereunder. Buyer will timely furnish to FHR a duly completed IRS Form W-9 within a reasonable time after request thereof, and will update such form and provide same to FHR as required under applicable law.

14. Seller Limited Warranty. FHR warrants that (a) at the time of delivery, Product sold hereunder will conform to the specifications agreed to herein, and (b) FHR has good and marketable title to the Product at the time of delivery, free and clear of all claims, liens or other encumbrances.

15. Product Handling. Buyer represents that (a) it is familiar with the Product and its risks and that it is a hazardous material, and (b) it has expertise and knowledge in the handling, processing, storage, transportation, cleanup, and disposal of the Product, as well as any related wastes, if applicable. Buyer assumes all risks and liabilities (including third party liabilities) arising out of Buyer's (and/or its' customers) handling, processing, storing, transportation, use, misuse, release, cleanup or disposal of Product, and of any derivative product, any co-product, by-product or waste product therefrom, whether used singly or in combination with other substances or in any process and compliance or non-compliance with any laws or regulations relating thereto. Buyer also acknowledges receipt of FHR's safety data sheets for the Product and acknowledges that it has had the opportunity to obtain from FHR such additional data and explanations as Buyer considers necessary for it to establish and implement appropriate procedures and warnings to protect its employees, agents, direct and indirect customers, contractors and the environment from hazards associated with the handling, processing, storing, sale, transportation, use, misuse, release, cleanup or disposal of the Product alone and with Buyer's products containing the Product. Buyer will promptly and properly provide to its employees, contractors and agents, as appropriate, any information provided by FHR relating to hazards, human health, the environment, or human or environmental safety relating to Product sold hereunder.

Seller and FHRPB each represent that (a) it is familiar with the Product and its risks and that it is a hazardous material, and (b) it has expertise and knowledge in the handling, processing, storage, transportation, cleanup, and disposal of the Product, as well as any related wastes, if applicable. Seller and FHRPB shall each be responsible for and shall each assume all risks and liabilities (including third party liabilities) arising out of each such party's handling, processing, storing, transportation, use, misuse, release, cleanup or disposal of Product, and of any derivative product, any co product, by product or waste product therefrom, whether used singly or in combination with other substances or in any process and compliance or non-compliance with any laws or regulations relating thereto.

16. Force Majeure. FHR shall not be liable hereunder for its failure to deliver Product, NSP shall not be liable hereunder for its failure to receive Product, and FHRPB shall not be liable hereunder for its failure to supply Product, and each such party's performance shall be excused if such failure is due to any one of the following causes ("**Force Majeure Causes**"): accident to, failure of, or breakage of equipment, storage tanks, or lines of pipe; temporary

failure of energy supply; unplanned or emergency shutdown for necessary repairs and maintenance; any act, omission or circumstance occasioned by or in consequence of any act of God, strike, lockout, act of the public enemy, terrorism, war or other armed conflict, blockade, insurrection, riot, epidemic, landslide, lightning, tornado, earthquake, fire, storm, flood, washout, or any other cause, whether or not of the kind herein enumerated, not within the control of the party claiming inability to perform and which by the exercise of due diligence such party is unable to prevent or overcome. A failure to settle or prevent any strike or other controversy with employees or with anyone purporting to represent employees shall not be considered to be a matter within the control of the party claiming inability to perform. In the event a Force Majeure Cause destroys any material portion of the Tank Facilities, prevents FHRPB from performing its obligations hereunder, and the time for suspended performance due to such Force Majeure Cause exceeds or is expected to exceed 180 days, then either FHRPB or NSP may immediately terminate this Agreement upon written notice to the other party and FHR, and the Agreement shall terminate as to all parties. Except to the extent FHRPB's failure to supply Product is due to a Force Majeure Cause, a failure by FHRPB to supply Product shall not be considered a Force Majeure Cause of FHR and does not excuse FHR for liability to NSP for failure to deliver Product hereunder, nor excuse FHRPB for failure to supply Product. In circumstances where a party seeks to be relieved of its obligations under this Agreement due to an event of Force Majeure, it shall provide written notice describing such event as soon as reasonably practical. In such notice, a party must provide an estimate of the time it expects to suspend performance under this Agreement due to the event of Force Majeure, which estimate shall be updated as reasonably practical. If the time for suspended performance due to the event of Force Majeure exceeds or is expected to exceed 180 days, then NSP may immediately terminate this Agreement upon written notice to FHR and FHRPB.

17. INDEMNITIES. SUBJECT TO THE EXPRESS TERMS AND LIMITATIONS OF THIS AGREEMENT, FHR AND FHRPB WILL EACH INDEMNIFY, DEFEND AND HOLD HARMLESS NSP, ITS PARENTS AND AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND OTHER REPRESENTATIVES FROM AND AGAINST ANY CLAIMS, ACTIONS, JUDGMENTS, LIABILITIES, LOSSES, COSTS, DAMAGES, FINES, PENALTIES AND EXPENSES RELATED TO THIS AGREEMENT (INCLUDING REASONABLE ATTORNEYS' FEES, EXPERT FEES AND COURT COSTS) (COLLECTIVELY THE "**LIABILITIES**") TO THE EXTENT ARISING FROM: (I) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF FHR OR FHRPB, AS THE CASE MAY BE, OR OF ITS RESPECTIVE EMPLOYEES, AGENTS, CONTRACTORS, AND OTHER REPRESENTATIVES; OR (II) ITS FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT.

SUBJECT TO THE EXPRESS TERMS AND LIMITATIONS OF THIS AGREEMENT, NSP WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS FHR, ITS PARENTS AND AFFILIATES, AND ITS AND THEIR RESPECTIVE GENERAL PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND OTHER REPRESENTATIVES FROM AND AGAINST ANY LIABILITIES IN CONNECTION WITH THIS AGREEMENT TO THE EXTENT ARISING FROM: (I) THE NEGLIGENCE OR WILLFUL MISCONDUCT OF NSP, ITS EMPLOYEES, AGENTS, CONTRACTORS AND OTHER REPRESENTATIVES; OR (II)

THE FAILURE OF BUYER TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT.

NEITHER PARTY WILL BE LIABLE FOR OTHER PARTY'S LOST PROFITS, LOST BUSINESS OPPORTUNITIES, OR OTHER INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE FOREGOING LIMITATION WILL NOT LIMIT A PARTY'S INDEMNITY OBLIGATIONS WITH RESPECT TO THIRD PARTY CLAIMS FOR SUCH DAMAGES. THE INDEMNITIES EXPRESSED IN THIS AGREEMENT SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

18. Default. A party will be in default under this Agreement if it: (a) breaches this Agreement and fails to cure such default within ten (10) days of a written notice from the non-defaulting party; (b) becomes insolvent; or (c) files or has filed against it a petition in bankruptcy, for reorganization, or for appointment of a receiver or trustee. In the event of any such default, the non-defaulting party may, without prejudice to its rights hereunder and in addition to such other rights and remedies as may be available under Law, terminate this Agreement upon notice to the defaulting party.

19. Notices. All notices required hereunder may be sent by electronic mail, a nationally recognized overnight courier service, first class mail, or hand delivered to the addresses set forth below.

To FHR: Flint Hills Resources, LP  
4111 East 37<sup>th</sup> Street North  
Wichita, KS 67220  
Attention: Brett Webb  
Phone: (316)828-8017  
Email: [Brett.webb@fhr.com](mailto:Brett.webb@fhr.com)

To FHRPB: Flint Hills Resources Pine Bend, LLC  
13775 Clark Road  
PO Box 64596  
Rosemount, MN 55068  
Attn: Chad Franzoi  
Phone: (651)480-3948  
Email: [Chad.franzoi@fhr.com](mailto:Chad.franzoi@fhr.com)

To NSP: Northern States Power Company  
1800 Larimer St, Suite 1000  
Denver, Co 80202  
Michael Boughner  
Director, Gas Supply  
Phone: (303)571-2764  
Email: [Michael.l.boughner@xcelenergy.com](mailto:Michael.l.boughner@xcelenergy.com)

20. No Third Party Beneficiaries. Nothing in this Agreement or any other document relating to this Agreement will entitle any person or entity other than the parties hereto to any claim, cause of action, remedy or right of any kind relating to the transactions contemplated by this Agreement.

21. Assignment. Neither party may assign the Agreement, in whole or in part, without the prior written consent of the other party. Any purported assignment in violation of this provision will be void.

22. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota, without reference to the choice of law principles thereof.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. The signed Agreement or counterparts may be exchanged electronically or stored electronically as a photocopy (such as in .pdf format). The parties agree that such electronically exchanged or stored copies will be enforceable as original documents.

**Flint Hills Resources, LP**

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

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

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

**Northern States Power Company,  
a Minnesota corporation**

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

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

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

**Flint Hills Resources Pine Bend, LLC**

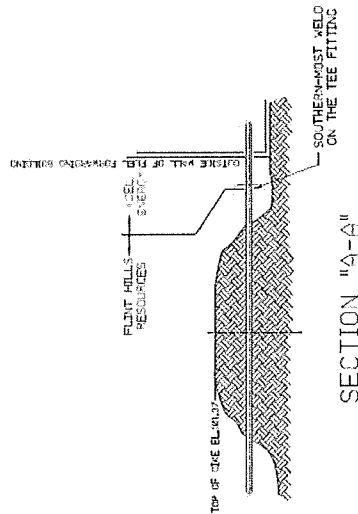
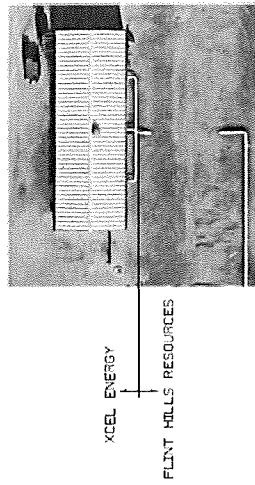
By: \_\_\_\_\_

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

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

Exhibit A

Description of Connection Point



POINT OF TRANSFER LOCATION

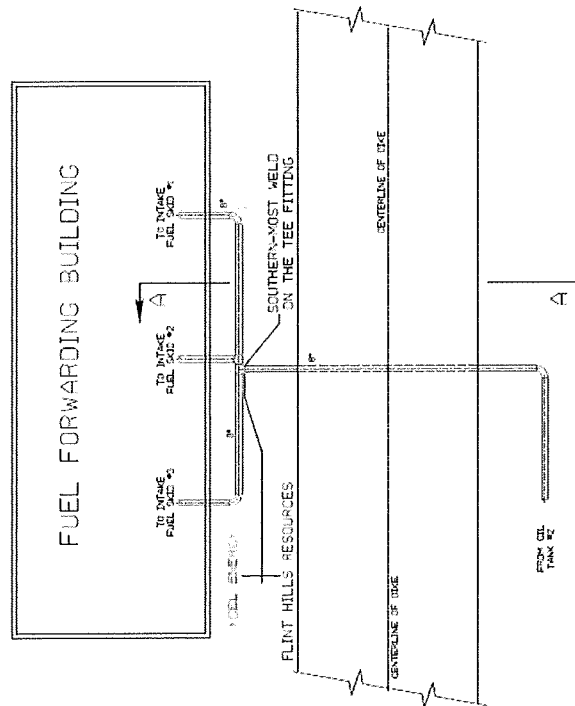


Exhibit B

MEASUREMENT

1. The parties agree that the Product quantities delivered shall be measured for purposes of transacting commercially by use of NSP's orifice meter(s) (each a "**Meter**" and any one or more the "**Meters**") in net gallons (U.S. gallon of 231 cubic inches of liquid at 60 degrees Fahrenheit and equilibrium vapor pressure of the liquid). NSP shall provide FHR with an electronic Meter reading of the Product quantities received. FHR shall use the Meter reading as the basis for the volume of Product invoiced to NSP.
2. The parties agree that the Meters do not conform to the performance requirements specified in the National Institute of Standards Handbook 44, but have been granted variance approval for commercial use by the State of Minnesota (Exhibit C). The variance approval granted by the State of Minnesota is limited only to Product sales to Buyer pursuant to this Agreement. Thus, FHRPB and FHR agree that all Product transferred through the Meters will be sold to Buyer to satisfy this Agreement; no third party sales are allowed.
3. All measurements will be made in accordance with the applicable Minnesota law, except as provided in the variance, as well as with ASTM and API standards. The Meters will be maintained and periodically inspected by NSP in accordance with the applicable ASTM and API standards. Either party may at its sole discretion request a test of a Meter to verify its accuracy; so long as such requesting party pays for the cost of such test.
4. In any case in which a Meter should fail or is out of service, delivery volumes will be determined by the following methods, in the order stated:
  - By using data recorded by any properly operating check measuring equipment;
  - By correcting the error, if the percentage of error can be ascertained by calibration test or calculation; or,
  - By comparison with deliveries during earlier periods under similar conditions when the Meter was registering accurately.
5. Either party may, within 30 days of a delivery, challenge the ticketed volume when the disputed difference is greater than 1 percent, by submitting a written objection to the other party. The parties may agree to a volume, average temperature, pressure, and density for the time of the measurement uncertainty, and the meter ticket may be adjusted in a manner mutually agreeable to the parties.

Exhibit C



14305 SOUTHERN CROSS DRIVE #150  
BURNSVILLE, MN 55306-7008  
MN.GOV/COMMERCE/  
651.599.1555 FAX 651.599.1553  
AN EQUAL OPPORTUNITY EMPLOYER

November 30, 2016

Constantine Cotsoradis,  
Flint Hills Resources  
7075 North 14<sup>th</sup> Avenue  
Omaha, Nebraska 68112

Dear Mr. Cotsoradis:

This letter is in regard to your request for a variance to use non-NTEP orifice meters located at 3185 117<sup>th</sup> Street East, Inver Grove Heights, Minnesota for commercial sales of diesel between Flint Hills Resources Pine Bend (FHRPB) and Northern States Power Company (NSP).

Your request for variance is approved on the following conditions:

1. The meters are used only for transactions between NSP and FHRPB
2. A current measurement agreement signed by both parties is maintained as long as the meters continue to be used commercially
3. NSP and FHRPB assume all responsibility for verifying the accuracy and performance of the meters

The measurement agreement does not have to be identical to Exhibit B submitted with your request for variance but it must cover the same points:

1. Method of sale (gross or net)
2. Acceptable tolerances and applicable standards which will be applied to the meters
3. Alternative methods to determine sales volume in the event of a meter failure
4. Procedure for disputing a ticketed delivery and for resolving disputes

The measurement agreement may be modified over time as long as it continues to cover those points and is signed by both parties.

Sincerely;

Julie Quinn, Director



cc: Nick Santori, Greg VanderPlaats

**EXHIBIT E**

**Form of Road Easement Agreement**

**EASEMENT AGREEMENT**

THIS AGREEMENT, made this day of \_\_\_\_\_, 2017, by and between NORTHERN STATES POWER COMPANY, a Minnesota corporation, hereinafter called "NSP", and Flint Hills Resources Pine Bend, LLC, hereinafter called "Grantee",

**WITNESSETH THAT:**

NSP, for and in consideration of the sum of \$1.00 and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to Grantee, its successors and assigns, but subject to the terms, covenants, and conditions hereinafter stated, the right, privilege, easement and authority to use an existing roadway, hereinafter referred to as the "Private Road", for purposes of ingress to and egress from GRANTEE's property over, upon and across the following described real estate owned by NSP in the County of Dakota, State of Minnesota, described as follows:

[insert legal description of the NSP Property]

(the "NSP Property")

The easement shall be confined to that part of the above described tracts described as follows:

[insert legal description of the Private Road]

(the "Private Road")

The Private Road on NSP's property (Burdened Parcel) and the Grantee's property (Benefited Parcel) are shown on Exhibit A, attached hereto.

1. Grant. NSP hereby grants Grantee and its successors and assigns a non-exclusive perpetual easement, subject to the provisions of Section 9 below, of the Private Road for the purpose of ingress and egress to the Benefited Parcel.
2. Use. NSP acknowledges that Grantee's rights to use, or allow others to use, the Private Road shall not be limited or restricted to a certain specified number or type of vehicles or equipment, provided that Grantee shall not block or interrupt NSP's use of the Private Road without NSP's prior verbal or written approval.

3. Access. The rights herein granted to Grantee include the right and privilege to enter upon the Private Road at any time, except as otherwise herein limited.
4. Ownership of Property: NSP covenants with Grantee, its successors and assigns, that NSP is the owner of the above-described premises and has the right to sell and convey an easement in the manner and form aforesaid. NSP hereby reserves to itself the full and unqualified right to construct and maintain over, upon and under the premises above described, and over, across or under the above granted easement, at any time or times and at any location or locations it may select, electric transmission or distribution lines, substation or control facilities related to either of the above uses, and drainage or any other facilities deemed necessary or desirable by NSP (the "Improvements") in relation to its operations and uses of said premises or any portion thereof. Notwithstanding the foregoing, any Improvements made over, under, in, along, across and upon the above granted easement, shall not interfere with the Grantee's use of the Private Road.
5. Maintenance and Repair. Grantee will be responsible for repairing any damage caused by Grantee to the Private Road. NSP will perform necessary maintenance and upkeep to the Private Road, based on NSP's sole discretion and consistent with past practice, so long as the property on which NSP's Inver Hills peaking generation facility is located remains in operational use, after which NSP will notify Grantee who will assume the obligation, including all costs and expenses, to maintain and repair the Private Road (other than relating to damage caused by NSP or its successors/assigns).
6. Indemnification. Grantee hereby assumes all liability and agrees to indemnify and compensate NSP for any injury or damage to persons or property, including NSP's property or employees, arising in connection with Grantee's use of the easement area , and resulting from Grantee's negligence or that of its agents, and Grantee further agrees to defend, indemnify, and save NSP harmless against loss, liability or expense (collectively, "Losses"), including attorney's fees, in connection with any and all actions, proceedings, claims, or demands which may be brought or made either against NSP or against NSP's interest in the above described lands by reason of Grantee's, Grantee's employees' or agents' use of the Private Road, including acts of omission as well as acts of commission, in the exercise or purported exercise of the rights and privileges herein granted. The liability of Grantee hereunder shall not extend to any Losses, injury, or damage suffered or caused by acts of God, acts of NSP or its assigns, or acts of third parties over whom Grantee has no right of control.
7. Governing Law. This agreement shall be governed and construed in accordance with the laws of the State of Minnesota. Grantee, in its use of the Private Road, shall comply with all pertinent laws, codes, ordinances, and regulations to the same extent that the same would be enforceable against NSP if it were the acting party.
8. Relocation. Flint Hills will cooperate with NSP should relocation or modification of the Private Road easement be required. This Agreement shall be amended to reflect same.

9. Transferability. Grantee acknowledges that the rights granted to and duties assumed by Grantee under this Agreement may not be assigned or delegated by Grantee without the prior written consent of NSP (other than to a buyer of the Benefited Parcel that Grantee reasonably believes will not materially increase usage of the Private Road as compared to the then-current usage), which consent may be given or withheld in NSP's sole and absolute discretion.
10. Notice. Each Party shall deliver all notices, requests, consents, claims, demands, waivers and other communications under this Agreement in writing and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time in accordance with this Section 10). Each Party shall deliver all Notices by U.S. Mail or by certified mail, return receipt requested.

To NSP: Northern States Power Company  
Manager, Siting & Land Rights  
1414 West Hamilton Avenue Ste 3  
Eau Claire, WI 54702  
Attn.: Pamela Rasmussen

To Grantee: Flint Hills Resources Pine Bend, LLC  
4111 East 37<sup>th</sup> Street North  
Wichita, Kansas 67220  
Exec. VP-Operations

IN WITNESS WHEREOF, the said parties have caused this instrument to be duly executed this day and year first above written.

**NORTHERN STATES POWER COMPANY,  
a Minnesota corporation**

By \_\_\_\_\_

Pamela Jo Rasmussen, Senior Manager  
Siting & Land Rights  
Xcel Energy Services Inc.  
an Authorized Agent for Northern States  
Power Company, a Minnesota corporation  
d/b/a Xcel Energy

STATE OF MINNESOTA )

COUNTY OF DAKOTA ) ss.  
 )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by Pamela Jo Rasmussen, Siting & Land Rights, Xcel Energy Services Inc., an Authorized Agent for Northern States Power Company, a Minnesota corporation, on behalf of the corporation.

Notary Public

**FLINT HILLS RESOURCES PINE BEND, LLC,**  
a Delaware limited liability company

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, the \_\_\_\_\_ of Flint Hills Resources Pine Bend, LLC, a limited liability company under the laws of Delaware, on behalf of the limited liability company.

Notary Public

This instrument was drafted by:  
Northern States Power Company  
414 Nicollet Mall, MP-8, Minneapolis, MN 55401

## EXHIBIT F

### Form of Easement Assignment

#### EASEMENT ASSIGNMENT

THIS EASEMENT ASSIGNMENT (this “Assignment”) is made as of \_\_\_\_\_, 2017, by and between NORTHERN STATES POWER COMPANY, a Minnesota corporation (“Assignor”), and FLINT HILLS RESOURCES PINE BEND, LLC, a Delaware limited liability company (“Assignee”).

#### RECITALS

1. Assignor and Assignee have entered into that certain Asset Purchase Agreement dated \_\_\_\_\_, 2017 (the “APA”), pursuant to which Assignor has agreed to convey to Assignee all of Assignor’s right, title and interest in and to certain real, personal and intangible property in Dakota County, Minnesota, as further described in the APA.

2. Assignor desires to assign to Assignee, to the extent assignable, all of Assignor’s right, title and interest in and to the agreements described on Exhibit A attached hereto (the “Easements”).

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained and for other good and valuable consideration, the parties do hereby agree as follows:

1. Capitalized terms used but not defined herein shall have the meanings assigned to them in the APA.

2. Assignor hereby assigns, sells, transfers, and sets over to Assignee, its successors and assigns, to the extent assignable, all of Assignor’s right, title and interest in and to the Easements. Assignee hereby accepts the foregoing assignment and transfer and agrees to assume, fulfill, perform and discharge all of the various commitments, obligations and liabilities under and by virtue of the Easements relating to the ownership, use, and operation of the Easements from and after the time of the conveyance hereunder, subject to the terms of the APA.

3. This Assignment is made without representation, warranty (express or implied) or recourse of any kind, except as may be expressly provided herein or in the APA.

4. This Assignment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Assignment may be executed in one or more counterparts, each of which shall be deemed to be an original Assignment, but all of which shall constitute but one and the same Assignment. This Assignment shall be governed by, and construed under, the laws of the State of Minnesota.

*[The remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, Assignor and Assignee hereby execute and deliver this Assignment as of the date first written above.

ASSIGNOR:

**NORTHERN STATES POWER COMPANY, a**  
Minnesota corporation

By: \_\_\_\_\_  
Name: Christopher B. Clark  
Title: President – NSP Minnesota

And by: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Assistant Corporate Secretary

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by Christopher B. Clark and \_\_\_\_\_, the President – NSP Minnesota and Assistant Corporate Secretary, respectively, of Northern States Power Company, a corporation under the laws of Minnesota, on behalf of such corporation.

Notary Public

ASSIGNEE:

**FLINT HILLS RESOURCES PINE BEND, LLC**, a  
Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_, the \_\_\_\_\_ of Flint Hills Resources Pine Bend, LLC, a limited liability company under the laws of Delaware, on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public

This instrument was drafted by:

Paul S. Moe  
Faegre Baker Daniels LLP  
2200 Wells Fargo Center  
90 South 7<sup>th</sup> Street  
Minneapolis, MN 55402

**EXHIBIT A**

**The Easements**

1. That certain Pipeline Lease and License Agreement dated July 1, 1990, by and between Northern States Power Company and Williams Pipe Line Company, as amended by that certain First Amendment to Pipeline Lease and License Agreement dated as of January 20, 2011, by and between Northern States Power Company and Magellan Pipeline Company, L.P. [not recorded]
2. That certain license agreement (License No. 94736) dated July 13, 1971, by and between Chicago and North Western Railway Company and Northern States Power Company. [not recorded]
3. That certain Pipe Line Easement dated May 20, 1971, granted by MAPCO Inc., to Northern States Power Company, recorded with the Dakota County, Minnesota, Register of Deed on June 14, 1971, as Document No. 384709.
4. That certain Pipe Line Easement dated July 29, 1971, granted by Great Northern Oil Company to Northern States Power Company, recorded with the Dakota County, Minnesota, Register of Deed on October 12, 1971, as Document No. [\_\_\_\_\_].
5. Fire hydrant maintenance agreement between Northern States Power Company and the City of Inver Grove Heights.

## EXHIBIT G

### Inventory Testing Results



### Sample Audit Report

Sample ID: XCEL\_FO\_TANK-20-OCT-16-4

ID #: 1160551

Description: #2 FUEL OIL XCEL - ALL

Report Generated at: 24-Oct-16 09:09

Logged By: C. Daniels

Sample Date: 20-Oct-16 10:26

Received Date: 20-Oct-16 10:31

Authorized Date: 22-Oct-16 21:15

Authorized By: S. Lane

Analysis	Component	Raw Result	Result	Specification	Fail/Warn	Entered By	Authorized By
D4052	API Gravity	32.90	32.90	>=28.8		SMIM	P. Singh
	Specific Gravity	0.8607	0.8607			SMIM	P. Singh
	Density	0.85987	0.85987			SMIM	P. Singh
	GRAV1	32.90	32.90			SMIM	P. Singh
	DENS1	0.85987	0.85987			SMIM	P. Singh
D976	Cetane Index	44.1	44.1	>=39.6		SMIM	P. Singh
	Cetane Index Correlated	44.7	44.7			SMIM	P. Singh
D4737	CET IND A	43.5	43.5			SMIM	P. Singh
	CET IND B	41.1	41.1			SMIM	P. Singh
	CET COR A	44.6	44.6			SMIM	P. Singh
	CET COR B	42.5	42.5			SMIM	P. Singh
	CET MAX	43.5	43.5			SMIM	P. Singh
	CET COR MAX	44.6	44.6			SMIM	P. Singh
D6045	Color	1.4	1.4			C. Landon	C. Landon
	Color Calc	<1.5	<1.5	<=2.5		C. Landon	C. Landon
D2887	IBP	241.8	241.8			SMIM	P. Singh
	5%	344.8	344.8			SMIM	P. Singh
	10%	389.6	389.6			SMIM	P. Singh
	20%	434.6	434.6			SMIM	P. Singh
	30%	465.3	465.3			SMIM	P. Singh
	50%	527.9	527.9			SMIM	P. Singh
	70%	589.3	589.3			SMIM	P. Singh
	80%	624.1	624.1			SMIM	P. Singh
	90%	672.3	672.3			SMIM	P. Singh
	95%	709.8	709.8			SMIM	P. Singh
	FBP	806.7	806.7			SMIM	P. Singh
	Total Recovery	100.00	100.0			SMIM	P. Singh
	Area	4.9051e+07	49051000	>=35000000		SMIM	P. Singh
D86	IBP	335.9	335.9 deg_F			SMIM	P. Singh
	5%	390.9	390.9 deg_F			SMIM	P. Singh
	10%	415.8	415.8 deg_F			SMIM	P. Singh
	30%	471.5	471.5 deg_F			SMIM	P. Singh
	50%	514.1	514.1 deg_F			SMIM	P. Singh
	70%	562.5	562.5 deg_F			SMIM	P. Singh
	90%	630.7	630.7 deg_F	539.5 - 640.4		SMIM	P. Singh
	95%	668.1	668.1 deg_F			SMIM	P. Singh
	FBP	686.8	686.8 deg_F			SMIM	P. Singh
	Percent Recovery	98.2	98.2 %			SMIM	P. Singh
	Total Recovery	99.4	99.4 %			SMIM	P. Singh
	Residue	1.2	1.2 ml			SMIM	P. Singh
	Observed Loss	0.6	0.6 %	<=2.5		SMIM	P. Singh

Sample Audit: XCEL\_FO\_TANK-20-OCT-16-4

Page 1 of 3

Analysis	Component	Raw Result	Result	Specification	Fail/Warn	Entered By	Authorized By
	IBP TIME	519	519 s	300 - 900		SMIM	P. Singh
	5%_Time	68	68 s			SMIM	P. Singh
	FBP TIME	120	120 s	<=300		SMIM	P. Singh
	Rate Data	4.5,4.6,4.8, 4.5,4.5,4.5, 4.4,4.5,4.3, 4.5,4.4,4.5, 4.5,4.4,4.3, 4.4,4.0,	4.5,4.6,4.8, 4.5,4.5,4.5, 4.4,4.5,4.3, 4.5,4.4,4.5, 4.5,4.4,4.3, 4.4,4.0,			SMIM	P. Singh
	Average Rate	4	4 mL/min	4 - 5		SMIM	P. Singh
D93	Flash	155.0	155 deg_F	140 - 199		C. Landon	C. Landon
H2S_SHAKER	Shaker	Negative	Negative			P. Singh	P. Singh
D130-122	Corrosion	*1A	*1A			C. Landon	C. Landon
D2624	Conductivity	301	301	>=50		P. Singh	P. Singh
	Conductivity (Report)	301	301			P. Singh	P. Singh
	Test Temperature	76	76			P. Singh	P. Singh
	Adjusted to 68	228	228			P. Singh	P. Singh
	Adjusted to Month	130	130			LANE3S	P. Singh
D445-AUTO	Viscosity-Auto	2.910	2.910	1.860 - 4.149		C. Landon	C. Landon
	Test Temperature	40.0	40.00	39.98 - 40.02		C. Landon	C. Landon
	Determinability	0.01	0.01	<=0.20		C. Landon	C. Landon
	Determinability Status	Successful	Successful			C. Landon	C. Landon
D5773	Cloud	7.4	7.4 deg_F	<=14.5		C. Landon	C. Landon
D5949	Pour Point	-26.0	-26.0 deg_F	<=0.5		C. Landon	C. Landon
D445-104	Viscosity	2.889	2.889 cSt	1.860 - 4.149		HEAPSP	C. Landon
	Factor	X697 0.01430	X697 0.01430			HEAPSP	C. Landon
	Vis time 1	201.965	201.965	>=200.000		C. Landon	C. Landon
	Vis time 2	202.097	202.097	>=200.000		C. Landon	C. Landon
D4176	APPEARANCE	Clear	Clear			B. Xiong	B. Xiong
	FREE H2O	Pass	Pass			B. Xiong	B. Xiong
	HAZE TEMP	47	47 deg_F			B. Xiong	B. Xiong
	PARTICUL	Pass	Pass			B. Xiong	B. Xiong
	Haze	1	1			B. Xiong	B. Xiong
	Tank Temperature	0	0 deg_F			B. Xiong	B. Xiong
D5453	Sulfur	35.84	35.84 ppm_wt	<=12.50	FAIL	SMIM	R. Warbington
D524	Gross Wt	13.7307	13.7307 g			M. Feleke	M. Feleke
	Tare Wt	9.7201	9.7201 g			M. Feleke	M. Feleke
	Resid Wt	9.7231	9.7231 g			M. Feleke	M. Feleke
	R Carbon	0.075	0.075 %wt	<=0.354		M. Feleke	M. Feleke
	Sample Wt	4.0	4.0 g	3.9000 - 4.1000		M. Feleke	M. Feleke
D6468	FPAD Rate	96.0	96.0	>=81.5		K. Cramlet	K. Cramlet
	FPAD1	96.0	96.0			K. Cramlet	K. Cramlet
	FPAD2	96.1	96.1			K. Cramlet	K. Cramlet

**Notepad Entries**

# 1	D445-AUTO	After auto vis timed out, I reran and thought it did the same so I added the manual vis. After running the manual vis it was discovered the the printer was off line after changing paper roll. 1 result	C. Landon
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Analysis	Component	Raw Result	Result	Specification	Fail/Warn	Entered By	Authorized By
# 2	D445-AUTO		Initial auto vis entery was with the wrong tube, so facor was wrong. corrected .			C. Landon	
# 3	D445-AUTO		Reactivated sample to enter correct tube #.			P. Heaps	
# 4	D4176		Color is brown.			B. Xiong	
# 5	D5453		Results were higher than calibration range. Talked to J. Stolis and we will rerun the sulfur analysis when we have another FO tank and dilute with toluene to get down in the cal range for this			R. Warbington	
# 6	None		instrument.			R. Warbington	
# 7	None					M. Feleke	
# 8	None		FPAD and D5453 added to tank.			S. Lane	
# 9	D5453		In 50 ml Volumetric Flask weighed an amount and diluted with isooctane to mark. Counts were within calibration range so results still failed but can be trusted.			R. Warbington	

**SCHEDULE 2.1e**

**Owned Real Property**

Certain real property in Dakota County, Minnesota, legally described as Lot 1, Block 1, Inver Hills Tank Farm, according to the recorded plat thereof.

**SCHEDULE 2.1f**

**Easements**

1. That certain Pipeline Lease and License Agreement dated July 1, 1990, by and between Northern States Power Company and Williams Pipe Line Company, as amended by that certain First Amendment to Pipeline Lease and License Agreement dated as of January 20, 2011, by and between Northern States Power Company and Magellan Pipeline Company, L.P. [not recorded]
2. That certain license agreement (License No. 94736) dated July 13, 1971, by and between Chicago and North Western Railway Company and Northern States Power Company. [not recorded]
3. That certain Pipe Line Easement dated May 20, 1971, granted by MAPCO Inc., to Northern States Power Company, recorded with the Dakota County, Minnesota, Register of Deed on June 14, 1971, as Document No. 384709.
4. That certain Pipe Line Easement dated July 29, 1971, granted by Great Northern Oil Company to Northern States Power Company, recorded with the Dakota County, Minnesota, Register of Deed on October 12, 1971, as Document No. [\_\_\_\_\_].
5. Fire hydrant maintenance agreement between Northern States Power Company and the City of Inver Grove Heights.

### **SCHEDULE 4.3**

#### **No Conflict; Third Party Consents of Seller (“Seller Required Consents”)**

1. Seller is required to obtain the consent of the Minnesota Public Utilities Commission to the proposed transaction.
2. Seller is required to obtain consent from the holders of the Easements to the assignment of the Easements to the Purchaser.

#### **SCHEDULE 4.4**

##### **Governmental Authority of Seller**

1. Seller is required to obtain the consent of the Minnesota Public Utilities Commission to the proposed transaction.
2. Seller is required to obtain final consents from Dakota County and the City of Inver Grove Heights regarding the subdivision of Seller's property and the recordation of the plat of Inver Hills Utility.
3. Seller is required to enter into agreements with Dakota County and/or the City of Inver Grove Heights regarding access for emergency vehicles to the Owned Real Property and Seller's adjacent property and for maintenance of fire hydrants on the Property.

**SCHEDULE 5.3**

**No Conflict; Third Party Consents of Purchaser (“Purchaser Required Consents”)**

No exceptions.

**SCHEDULE 5.4**

**Governmental Authority of Purchaser**

No exceptions.

**SCHEDULE 6.8**

**Payment for Public Improvements**

No exceptions.



Date: 14 July 2016

To: Jerry Dittman

From: Paul Hoffman, CMIR

Subject: Inver Hills Tanks Value Assessment

Purpose:

The purpose of this valuation is to estimate the fair market value (FMV) of three fuel oil tanks with an approximate capacity of 10 million gallons per tank. The tanks are constructed of A283 grade C steel with an average thickness of 0.75 inches and are 43 years old. Each tank is comprised of approximately 707 net tons of steel. Two tanks (#1 and #3) are mothballed and would require upgrades to be put into service. Tank #2 received the upgrades of a double bottom and cathodic protection system in 2006 and is currently permitted through 2026. An API 653 Inspection of Tank #2 is due in 2026 as well. Associated infrastructure consists of approximately 1.2 miles of piping and valves.

Valuation Approach Summary:

Appraisal methodology defines value according the purpose of the appraisal. In this case the purpose is to determine fair market value (FMV) installed which is defined by the American Society of Appraisers as *the estimated dollar amount that can be expected to be paid for an installed property*. This value definition generally takes into account the original cost of installation. However, since the cost of installation is not available, the new installations costs will be included in the replacement cost calculation and depreciated as outlined below.

There are three basic approaches used to determine value. They are:

- Cost approach – the new replacement cost (NRC) of a unit of similar utility is determined and then depreciated (adjusted) to account for physical deterioration, functional depreciation which quantifies increased functionality or efficiencies in the new asset and economic depreciation such as upgrades required to allowing permitting or operation. This is the approach that is appropriate for this value opinion.
- Market approach – data is collected on the actual sales of similar units. Since direct (exact) matches are typically not available, the data on the sales is adjusted to match the subject asset. In this case there is no market data available so this method is not appropriate.
- Income approach – takes into account the current value of future benefits derived from the operation of the subject asset. This method is generally reserved for the

sale of assets associated with an operating business and thus not appropriate for this value opinion.

#### Data and assumptions:

Replacement cost new (installed with no upgrades or extras) \$4.3 million per tank<sup>1</sup>.

Normal useful life (NUL) of a tank is estimated to be 55 years.

Upgrades to Tank #2 indicate an extension of useful life, but at this time no data is available to allow this to be factored into the appraisal

Estimated cost to upgrade tanks #1 and #3 is \$1.5 million each.

Each tank has approximately 707 net tons of steel.

Piping and valves contain approximately 85 net tons of steel.

Tanks, piping and valves are to be left in place.

Scrap value of steel (July 2016) is \$205 per net ton<sup>2</sup>.

Metal content (scrap) value of each tank is approximately \$145,000 subject to steel market variability.

#### Calculations:

Physical depreciation is based on the age/life method. This is determined by dividing the age in years of the tank by the estimated normal life of 55 years. Given that the tanks are 43 years old, this yields a physical depreciation factor of 78%.

<u>Tanks #1 &amp; #3:</u>	New Replacement Cost	\$4,300,000 per tank
	Physical depreciation	<u>\$3,354,000</u> per tank
		\$946,000 per tank
	Functional depreciation	<u>\$1,500,000</u> per tank
		-\$554,000
	Economic depreciation	<u>\$0</u>
		-\$554,000

**Fair market value equals metal content value at \$145,000 per tank.**

<u>Tank #2:</u>	New Replacement Cost	\$4,300,000 per tank
	Physical depreciation	<u>\$3,354,000</u> per tank
		\$946,000 per tank
	Functional depreciation	<u>\$0</u> (upgraded)
		\$946,000
	Economic depreciation	<u>\$0</u>
		\$946,000

**Fair market value installed is \$946,000.**

Piping and valves contain approximately 85 tons of material with a metal content value of \$205 per ton, which totals **\$17,425**.

**Conclusion:**

**Based on metals market prices for July 2016, the estimated fair market value installed for the package of three tanks and associated piping is:**

**\$145,000 (tank #1) + \$946,000 (tank #2) + \$145,000 (tank #3) + \$17,425 (piping and valves) = \$1,253,425.**

Endnotes:

<sup>1</sup> Budgetary quote for tanks provided by OEM Chicago Bridge & Iron, +/- 20%, July 2016.

<sup>2</sup> AMM July Price for #1 Heavy Melt Steel, Chicago Market

**Xcel Energy**  
**NSPM - Inver Hills Tank Sale**  
**Proposed Journal Entries**  
**Prepared 6/15/2017**

Activity	FERC Account	Account Description	Debit	Credit
Record Sale Proceeds	131	Cash or Equivalent	\$5,285,000.00	
	108.30	Retirement Work in Progress - Salvage		\$5,285,000.00
Record Costs Associated with Sale	108.20	Retirement Work in Progress - Cost of Removal	\$335,000.00	
	131	Cash or Equivalent		\$335,000.00
Retire Assets Sold and Clear Retirement Work Order	108.30	Retirement Work in Progress - Salvage	\$5,285,000.00	
	108	FERC Account 108 - Accumulated Reserve		\$2,783,366.56
	421.1	Gain on Disposition of Property		\$1,159,848.00
	108.2	Retirement work in progress-Cost of Removal		\$335,000.00
	108	FERC Account 108 - Accumulated Reserve	\$2,129,567.27	
	101	Electric Plant in Service-Equipment		\$3,046,812.82
	101	Electric Plant in Service-Land		\$89,539.89
Record Sale of Fuel Inventory	131	Cash or Equivalent (placeholder, will be based on market price at the time of sale resulting in a gain or loss)	\$1,969,782.33	
	151	Fuel Stock (Book cost at 5/31/17)		\$2,469,782.33
	421.2	Loss on the Disposition of Property (placeholder, will be based on market price at the time of sale resulting in a gain or loss)	\$500,000.00	

	<b>Total Company</b>	<b>MN Jurisdiction</b>
1 Asset Purchase Price	\$ 5,285	\$ 3,889
2 Estimated Fuel Purchase Price (a)	1,970	1,449
3 Tank & Equipment Book Value (b)	3,047	2,242
4 Fuel Inventory Book Value (b)	2,470	1,818
5 Land Book Value (b)	90	66
6 Less Accumulated Reserve (b)	(2,130)	(1,567)
7 Total Asset Net Book Value	3,477	2,559
8 Estimated Transaction Costs	335	247
9 <b>Pre-tax Gain on Sale</b> (line 1+2-7-8)	<b>\$ 3,443</b>	<b>\$ 2,533</b>

	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
10										
11 <b>Calculation of Customer Savings (MN Jur):</b>										
12 Asset Revenue Requirement (pg. 2)	170	165	159	153	147	141	134	128	122	116
13 Fuel Revenue Requirement (pg. 3)	187	187	187	187	187	187	187	187	187	187
14 O&M Expense (c, d)	32	33	33	34	35	35	36	37	38	491
15 <b>Total Revenue Requirements if Retain Assets</b>	<b>390</b>	<b>386</b>	<b>380</b>	<b>374</b>	<b>369</b>	<b>363</b>	<b>358</b>	<b>352</b>	<b>347</b>	<b>794</b>
16 Estimated Fuel Supply Agreement (d)	(125)	(128)	(131)	(135)	(138)	(142)	(145)	(149)	(152)	(156)
17 <b>Net Customer Savings</b>	<b>265</b>	<b>257</b>	<b>248</b>	<b>240</b>	<b>231</b>	<b>222</b>	<b>213</b>	<b>204</b>	<b>195</b>	<b>638</b>

18 **Net Present Value of Customer Savings** \$ 1,848

19 **NSPM to Retain Return on Investments (MN Jur):**

20 Asset Debt & Equity Return (pg. 2)	32	28	23	18	14	9	4	(1)	(6)	(11)
21 Fuel Debt & Equity Return (pg. 3)	152	152	152	152	152	152	152	152	152	152
22 <b>Total NSPM Return on Investments</b>	<b>184</b>	<b>180</b>	<b>175</b>	<b>170</b>	<b>165</b>	<b>160</b>	<b>155</b>	<b>150</b>	<b>145</b>	<b>140</b>

23 **Net Present Value of NSPM Return on Investments** \$ 1,160

24 **Proposed Sharing of Gain on Sale (MN Jur):**

25 Pre-tax Gain on Sale (line 9)	\$ 2,533
26 Less Gain Retained by NSPM (line 23)	\$ (1,160)
27 <b>Net Gain to Customers</b>	<b>\$ 1,373</b>

28 **Total Customer Benefit (Cost Savings + Gain on Sale)** **\$ 3,222**  
(line 18 + line 27)

- (a) The actual market price of fuel at the time of sale will determine the gain or loss on sale of fuel inventory. Currently estimating a loss based on a 6/7/17 market price.  
(b) Asset values as of 5/31/17  
(c) Assumes tank inspection in 2026  
(d) Includes inflation assumptions

Total Company (Before IA)											MN Jurisdiction										
Rate Analysis	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	
1	Average Balances:																				
2	Plant Investment	3,136	3,136	3,136	3,136	3,136	3,136	3,136	3,136	3,136	2,739	2,739	2,739	2,739	2,739	2,739	2,739	2,739	2,739	2,739	
3	Depreciation Reserve	2,310	2,418	2,554	2,690	2,827	2,963	3,099	3,235	3,372	2,018	2,112	2,231	2,350	2,469	2,588	2,707	2,826	2,945	3,064	
4	CWIP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
5	Accumulated Deferred Taxes	301	257	201	146	90	34	(21)	(77)	(133)	263	224	176	127	79	30	(19)	(67)	(116)	(164)	
6	Average Rate Base = line 2 - line 3 + line 4 - line 5	526	462	381	301	220	139	58	(22)	(103)	459	403	333	263	192	122	51	(19)	(90)	(160)	
7																					
8	Revenues:																				
9	Interchange Agreement offset = -line 40 x line 52 x line 53										(32)	(31)	(30)	(29)	(27)	(26)	(25)	(24)	(23)	(22)	
10																					
11	Expenses:																				
12	Book Depreciation	136	136	136	136	136	136	136	136	136	119	119	119	119	119	119	119	119	119	119	
13	Annual Deferred Tax	(56)	(56)	(56)	(56)	(56)	(56)	(56)	(56)	(56)	(49)	(49)	(49)	(49)	(49)	(49)	(49)	(49)	(49)	(49)	
14	ITC Flow Thru	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
15	Property Taxes	39	39	39	39	39	39	39	39	39	34	34	34	34	34	34	34	34	34	34	
16	subtotal expense = lines 12 thru 15	120	120	120	120	120	120	120	120	120	105	105	105	105	105	105	105	105	105	105	
17																					
18	Tax Preference Items:																				
19	Tax Depreciation & Removal Expense	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
20	Tax Credits ( enter as negative)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
21	Avoided Tax Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
22																					
23	AFUDC	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
24																					
25	Returns:																				
26	Debt Return = line 6 x (line 44 + line 45)	12	10	8	7	5	3	1	(0)	(2)	10	9	7	6	4	3	1	(0)	(2)	(4)	
27	Equity Return = line 6 x (line 46 + line 47)	25	22	18	15	11	7	3	(1)	(5)	22	19	16	13	9	6	2	(1)	(4)	(8)	
28																					
29	Tax Calculations:																				
30	Equity Return = line 27	25	22	18	15	11	7	3	(1)	(5)	22	19	16	13	9	6	2	(1)	(4)	(8)	
31	Taxable Expenses = lines 12 thru 14	81	81	81	81	81	81	81	81	81	70	70	70	70	70	70	70	70	70	70	
32	plus Tax Additions = line 21	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
33	less Tax Deductions = (line 19 + line 23)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
34	subtotal	106	103	99	95	91	87	84	80	76	93	90	87	83	80	76	73	70	66	63	
35	Tax gross-up factor = t / (1-t) from line 50	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	0.705611	
36	Current Income Tax Requirement = line 34 x line 35	75	73	70	67	64	62	59	56	53	65	63	61	59	56	54	51	49	47	44	
37	Tax Credit Revenue Requirement = line 20 x line 35 + line 20	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
38	Total Current Tax Revenue Requirement = line 36+ line 37	75	73	70	67	64	62	59	56	53	65	63	61	59	56	54	51	49	47	44	
39																					
40	Total Capital Revenue Requirements	232	225	216	208	200	191	183	174	166	170	165	159	153	147	141	134	128	122	116	
41	= line 16 + line 26 + line 27 + line 38 - line 23 + line 9																				
42	O&M Expense	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
43	Total Revenue Requirements	232	225	216	208	200	191	183	174	166	170	165	159	153	147	141	134	128	122	116	
	Weighted	Weighted	Weighted	Weighted	Weighted	Weighted	Weighted	Weighted	Weighted	Weighted											
	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Cost											
44	Long Term Debt	2.1700%	2.1700%	2.1700%	2.1700%	2.1700%	2.1700%	2.1700%	2.1700%	2.1700%											
45	Short Term Debt	0.0300%	0.0300%	0.0300%	0.0300%	0.0300%	0.0300%	0.0300%	0.0300%	0.0300%											
46	Preferred Stock	0.0000%	0.0000%	0.0000%	0.0000%	0.0000%	0.0000%	0.0000%	0.0000%	0.0000%											
47	Common Equity	4.8300%	4.8300%	4.8300%	4.8300%	4.8300%	4.8300%	4.8300%	4.8300%	4.8300%											
48	Required Rate of Return	7.0300%	7.0300%	7.0300%	7.0300%	7.0300%	7.0300%	7.0300%	7.0300%	7.0300%											
49	PT Rate	1.8750%	1.8750%	1.8750%	1.8750%	1.8750%	1.8750%	1.8750%	1.8750%	1.8750%											
50	Tax Rate (MN)	41.3700%	41.3700%	41.3700%	41.3700%	41.3700%	41.3700%	41.3700%	41.3700%	41.3700%											
51	MN JUR Energy	87.3858%	87.3858%	87.3858%	87.3858%	87.3858%	87.3858%	87.3858%	87.3858%	87.3858%											
52	MN JUR Demand	87.3462%	87.3462%	87.3462%	87.3462%	87.3462%	87.3462%	87.3462%	87.3462%	87.3462%											
53	IA Demand	84.2464%	84.2464%	84.2464%	84.2464%	84.2464%	84.2464%	84.2464%	84.2464%	84.2464%											

<u>Rate Analysis</u>	Total Company (Before IA) 2017	MN Jurisdiction 2017
1 <u>Average Balances:</u>		
2 Other Rate Base	2,470	2,158
3 Depreciation Reserve	-	-
4 CWIP	-	-
5 Accumulated Deferred Taxes	-	-
6 Average Rate Base = line 2 - line 3 + line 4 - line 5	2,470	2,158
7		
8 <u>Revenues:</u>		
9 Interchange Agreement offset = -line 40 x line 52 x line 53		(38)
10		
11 <u>Expenses:</u>		
12 Book Depreciation	-	-
13 Annual Deferred Tax	-	-
14 ITC Flow Thru	-	-
15 Property Taxes	-	-
16 subtotal expense = lines 12 thru 15	-	-
17		
18 <u>Tax Preference Items:</u>		
19 Tax Depreciation & Removal Expense	-	-
20 Tax Credits ( enter as negative)	-	-
21 Avoided Tax Interest	-	-
22		
23 AFUDC	-	-
24		
25 <u>Returns:</u>		
26 Debt Return = line 6 x (line 44 + line 45)	54	47
27 Equity Return = line 6 x (line 46 + line 47)	130	104
28		
29 <u>Tax Calculations:</u>		
30 Equity Return = line 27	130	104
31 Taxable Expenses = lines 12 thru 14	-	-
32 plus Tax Additions = line 21	-	-
33 less Tax Deductions = (line 19 + line 23)	-	-
34 subtotal	130	104
35 Tax gross-up factor = t / (1-t) from line 50	0.705611	0.705611
36 Current Income Tax Requirement = line 34 x line 35	91	74
37 Tax Credit Revenue Requirement = line 20 x line 35 + line 20	-	-
38 Total Current Tax Revenue Requirement = line 36+ line 37	91	74
39		
40 Total Capital Revenue Requirements	275	187
41 = line 16 + line 26 + line 27 + line 38 - line 23 + line 9		
42 O&M Expense	-	-
43 Total Revenue Requirements	275	187
	<b>Weighted</b>	
<b>Capital Structure</b>	<b>Cost</b>	
44 Long Term Debt	2.1700%	
45 Short Term Debt	0.0300%	
46 Preferred Stock	0.0000%	
47 Common Equity	4.8300%	
48 Required Rate of Return	7.0300%	
49 PT Rate	0.0000%	
50 Tax Rate (MN)	41.3700%	
51 MN JUR Energy	87.3858%	
52 MN JUR Demand	87.3462%	
53 IA Demand	84.2464%	

## CERTIFICATE OF SERVICE

I, Lynnette Sweet, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

**Docket No.            E002/M-17-\_\_\_\_**  
**Xcel Energy's Miscellaneous Electric Service List**

Dated this 30<sup>th</sup> day of June 2017

/s/

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Lynnette Sweet  
Regulatory Administrator

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
David	Aafedt	daafedt@winthrop.com	Winthrop & Weinstine, P.A.	Suite 3500, 225 South Sixth Street  Minneapolis, MN 554024629	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St  Duluth, MN 558022191	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Alison C	Archer	aarcher@misoenergy.org	MISO	2985 Ames Crossing Rd  Eagan, MN 55121	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Ryan	Barlow	Ryan.Barlow@ag.state.mn.us	Office of the Attorney General-RUD	445 Minnesota Street Bremer Tower, Suite 1400 St. Paul, Minnesota 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
James J.	Bertrand	james.bertrand@stinson.com	Stinson Leonard Street LLP	150 South Fifth Street, Suite 2300  Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
William A.	Blazar	bblazar@mnchamber.com	Minnesota Chamber Of Commerce	Suite 1500 400 Robert Street North St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
James	Canaday	james.canaday@ag.state.mn.us	Office of the Attorney General-RUD	Suite 1400 445 Minnesota St. St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Jeanne	Cochran	Jeanne.Cochran@state.mn.us	Office of Administrative Hearings	P.O. Box 64620  St. Paul, MN 55164-0620	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
John	Coffman	john@johncoffman.net	AARP	871 Tuxedo Blvd.  St. Louis, MO 63119-2044	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Corey	Conover	corey.conover@minneapolismn.gov	Minneapolis City Attorney	350 S. Fifth Street City Hall, Room 210 Minneapolis, MN 554022453	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Carl	Cronin	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7  Minneapolis, MN 554011993	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Joseph	Dammel	joseph.dammel@ag.state.mn.us	Office of the Attorney General-RUD	Bremer Tower, Suite 1400 445 Minnesota Street St. Paul, MN 55101-2131	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Ian	Dobson	ian.dobson@ag.state.mn.us	Office of the Attorney General-RUD	Antitrust and Utilities Division 445 Minnesota Street, BRM Tower St. Paul, MN 55101	Electronic Service 1400	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Ian	Dobson	Residential.Utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
John	Farrell	jfarrell@ilsr.org	Institute for Local Self- Reliance	1313 5th St SE #303  Minneapolis, MN 55414	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Emma	Fazio	emma.fazio@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 551012198	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Stephen	Fogel	Stephen.E.Fogel@XcelEnergy.com	Xcel Energy Services, Inc.	816 Congress Ave, Suite 1650  Austin, TX 78701	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Karen	Gados	karen@mysunshare.com	SunShare, LLC	1441 18th Street Suite 400 Denver, CO 80202	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Edward	Garvey	edward.garvey@AESLconsulting.com	AESL Consulting	32 Lawton St  Saint Paul, MN 55102-2617	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Janet	Gonzalez	Janet.gonzalez@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Michael	Hoppe	il23@mtm.org	Local Union 23, I.B.E.W.	932 Payne Avenue  St. Paul, MN 55130	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Julia	Jazynka	jjazynka@energyfreedomcoalition.com	Energy Freedom Coalition of America	101 Constitution Ave NW Ste 525 East  Washington, DC 20001	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Alan	Jenkins	aj@jenkinsatlaw.com	Jenkins at Law	2265 Roswell Road Suite 100 Marietta, GA 30062	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Linda	Jensen	linda.s.jensen@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota Street  St. Paul, MN 551012134	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric
Sarah	Johnson Phillips	siphillips@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Miscl Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Mark J.	Kaufman	mkaufman@ibewlocal949.org	IBEW Local Union 949	12908 Nicollet Avenue South  Burnsville, MN 55337	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Hudson	Kingston	hkingston@mncenter.org	MN Center for Environmental Advocacy	26 East Exchange Street, Suite 206  St. Paul, Minnesota 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Thomas	Koehler	TGK@IBEW160.org	Local Union #160, IBEW	2909 Anthony Ln  St Anthony Village, MN 55418-3238	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Michael	Krikava	mkrikava@briggs.com	Briggs And Morgan, P.A.	2200 IDS Center 80 S 8th St Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Peder	Larson	plarson@larkinhoffman.com	Larkin Hoffman Daly & Lindgren, Ltd.	8300 Norman Center Drive Suite 1000 Bloomington, MN 55437	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W  Farmington, MN 55024	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Paula	Maccabee	Pmaccabee@justchangela.w.com	Just Change Law Offices	1961 Selby Ave  Saint Paul, MN 55104	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Peter	Madsen	peter.madsen@ag.state.mn.us	Office of the Attorney General-DOC	Bremer Tower, Suite 1800 445 Minnesota Street St. Paul, Minnesota 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric
Kavita	Maini	kmairi@wi.rr.com	KM Energy Consulting LLC	961 N Lost Woods Rd  Oconomowoc, WI 53066	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E  St. Paul, MN 55106	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Joseph	Meyer	joseph.meyer@ag.state.mn.us	Office of the Attorney General-RUD	Bremer Tower, Suite 1400 445 Minnesota Street St Paul, MN 55101-2131	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
David	Moeller	dmoeller@allte.com	Minnesota Power	30 W Superior St  Duluth, MN 558022093	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200  Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
David	Niles	david.niles@avantenergy.com	Minnesota Municipal Power Agency	220 South Sixth Street Suite 1300 Minneapolis, Minnesota 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Carol A.	Overland	overland@legalelectric.org	Legalelectric - Overland Law Office	1110 West Avenue  Red Wing, MN 55066	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Jeff	Oxley	jeff.oxley@state.mn.us	Office of Administrative Hearings	600 North Robert Street  St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206  St. Paul, MN 551011667	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750  St. Paul, MN 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Inga	Schuchard	ischuchard@larkinhoffman.com	Larkin Hoffman	8300 Norman Center Drive Suite 1000 Minneapolis, MN 55437	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Zeviel	Simpser	zsimpser@briggs.com	Briggs and Morgan PA	2200 IDS Center80 South Eighth Street  Minneapolis, MN 554022157	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Ken	Smith	ken.smith@districtenergy.com	District Energy St. Paul Inc.	76 W Kellogg Blvd  St. Paul, MN 55102	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Byron E.	Starns	byron.starns@stinson.com	Stinson Leonard Street LLP	150 South 5th Street Suite 2300 Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
James M.	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	470 U.S. Bank Plaza 200 South Sixth Street Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Lisa	Veith	lisa.veith@ci.stpaul.mn.us	City of St. Paul	400 City Hall and Courthouse 15 West Kellogg Blvd. St. Paul, MN 55102	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Joseph	Windler	jwindler@winthrop.com	Winthrop & Weinstine	225 South Sixth Street, Suite 3500  Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Cam	Winton	cwinton@mnchamber.com	Minnesota Chamber of Commerce	400 Robert Street North Suite 1500 St. Paul, Minnesota 55101	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misc Electric

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Patrick	Zomer	Patrick.Zomer@lawmoss.com	Moss & Barnett a Professional Association	150 S. 5th Street, #1200  Minneapolis, MN 55402	Electronic Service	No	GEN_SL_Northern States Power Company dba Xcel Energy-Elec_Xcel Misl Electric