

CenterPoint Energy Houston Electric, LLC

Applicable: Entire Service Area

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**6.1.1.6.8 RIDER AMS – SURCHARGE FOR ADVANCED METERING SYSTEM****AVAILABILITY**

Pursuant to Public Utility Regulatory Act §39.107 and Public Utility Commission of Texas Substantive Rule 25.130, the advanced metering system (AMS) surcharge is a nonbypassable surcharge applicable to the non-IDR customers in the Retail Customer Rate Classes listed below.

**MONTHLY RATE**

A Retail Customer's AMS for the billing month shall be determined by multiplying the appropriate AMS factor shown below by the Retail Customer's applicable billing determinant for the current month.

The AMS Infrastructure charge shall be payable by all non-IDR AMS Retail Customers for eight years beginning on July 1, 2008.

The AMS Meter charge shall be payable by non-IDR Retail Customers with an installed advanced meter for a period of five years beginning when the advanced meter is installed.

<b><u>Retail Customer Rate Classes</u></b>	<b><u>Advanced Metering System Infrastructure Surcharge Factor</u></b>	
Residential Service	\$0.001728	Per kWh per Retail Customer per Month
Secondary Service Less than or Equal to 10 kVA	\$0.002399	Per kWh per Retail Customer per Month
Secondary Service Greater than 10 kVA	\$0.029637	Per kVa per Non-IDR Retail Customer per Month
Primary Service	\$0.006334	Per kVa per Non-IDR Retail Customer per Month

## Chapter 6: Company Specific Items

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<b><u>Retail Customer Rate Classes</u></b>	<b><u>Advanced Metering System Meter Surcharge Factor</u></b>	
Residential Service	\$4.75	Per Retail Customer per Month
Secondary Service Less than or Equal to 10 kVA	\$10.46	Per Retail Customer per Month
Secondary Service Greater than 10 kVA	\$10.46	Per Non-IDR Retail Customer per Month
Primary Service	\$10.46	Per Non-IDR Retail Customer per Month

**NOTICE**

This Rate Schedule is subject to the Company's Tariff and Applicable Legal Authorities.

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### 6.1.2.3 DISCRETIONARY CHARGES OTHER THAN CONSTRUCTION SERVICE CHARGES

#### 6.1.2.3.1 ADDITIONAL DISCRETIONARY CHARGES

These charges for Discretionary Services are in addition to all other charges specified in the Company's Tariff for Delivery System Charges that may be applicable to the Retail Customer's premises. Unless otherwise provided by special arrangement, the invoice for service under this rate schedule will be as provided for in the Service Rules and Regulations in the Company's Tariff.

<u>Item</u>	<u>Description</u>	<u>Charge</u>
<b>Meter Test Charges:</b>		
DC.1	<b>Competitive Meter Communication Diagnostic Service Fee</b> Cost of diagnosing and/or repairing remote communications problems, including verification of communications access when repairs are complete, for Non-Company Owned Billing Meter.	
	Self-contained meter	\$ 65.00
	Transformer rated meter	\$ 65.00
<b>Non-Standard Meter Installation Charges:</b>		
DC.2	<b>Advanced Billing Meter Installation Charge</b> Applicable to Rate Schedules Secondary Service Less Than or Equal to 10 kVA, Secondary Service Greater Than 10 kVA and Primary Service for the installation of an advanced meter for billing at Retail Customer's or REP's request.  * \$204.00 plus the incremental cost between a standard meter for the specified installation and the advanced meter functionality requested, plus additional charges for services related to advanced capabilities as appropriate.	(see charges in description section*)
DC.3	<b>Advanced Non-Billing Meter Installation Charge</b> Applicable to any Retail Customer premises for the installation of an advanced meter for non-billing purposes at Retail Customer's or REP's request.  *\$204.00 plus additional charges for services related to advanced capabilities as appropriate; Retail Customer/REP shall provide the advanced meter which must meet the Company's meter standards.	(see charges in description section*)

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DC.4	<p align="center"><b>Pulse Metering Equipment Installation</b></p> <p><u>For Billing Meters that do not currently provide pulse outputs (kWh meters and thermal demand meters)</u></p> <p>Install Pulse Meter and fused junction box (customer receives one pulse output-kWh). For more than one output, requests will be processed according to charges under the "Advanced Billing Meter Installation Charge" above.</p> <p align="right">\$ 219.00</p> <p><u>For Billing Meters with current pulse capabilities for kWh, kVAR, and time</u></p> <p>Install one relay (one output) <span style="float:right">\$ 302.00</span></p> <p>Install two relays (two outputs) <span style="float:right">\$ 458.00</span></p> <p>Install three relays (three outputs) <span style="float:right">\$596.00</span></p>	
DC.5	<p align="center"><b>Pulse Metering Equipment Replacement</b></p> <p>Replace one relay* <span style="float:right">\$ 226.00</span></p> <p>Replace one Pulse Meter <span style="float:right">\$ 179.00</span></p> <p>Replace one relay and one Pulse Meter* <span style="float:right">\$ 341.00</span></p> <p>Replace fuses in fused junction box <span style="float:right">\$ 52.00</span></p> <p>Pulse Metering Equipment trouble call which is determined to be problem with Customer's equipment <span style="float:right">\$ 52.00</span></p> <p align="right">\$ 160.00</p> <p align="center">*Each additional relay replaced on same trip</p>	
DC.6	<p align="center"><b>Competitive Meter Non-Standard Programming Service Fee</b></p> <p>Self-contained meter- field programming <span style="float:right">\$ 73.00</span></p> <p>Self-contained meter- shop programming <span style="float:right">\$ 46.00</span></p> <p>Transformer rated meter- field programming <span style="float:right">\$ 73.00</span></p> <p>Transformer rated meter- shop programming <span style="float:right">\$ 46.00</span></p>	
<b>Service Call Charge:</b>		
DC.7	<p align="center"><b>URD By-Pass Cable Installation Charge</b></p> <p>Applicable to any Residential Retail Customer or Retail Customer's REP that requests the Company to install a temporary, above-ground by-pass cable in order to continue electric service while Retail Customer-owned URD facilities are being repaired or replaced. (Charge per month.)</p>	<p align="center">\$ 230.00 Per Month</p>

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<b>Other Charges:</b>		
DC.8	<p align="center"><b>Returned Check Charge</b></p> <p>Applicable to any Retail Customer or REP whose check is returned by a bank or other financial institution as not payable.</p>	\$ 10.50
DC.9	<p align="center"><b>Voltage Monitoring</b></p> <p>Applicable to requests by Retail Customer or Retail Customer's Competitive Retailer to install voltage monitoring equipment at Retail Customer's Point of Service for evaluation and reporting of data.</p> <ol style="list-style-type: none"> <li>1. Data determines a problem with Company's equipment or system</li> <li>2. Data determines no problem with Company's equipment or system.</li> </ol>	<p>No Charge</p> <p>\$ 848.00</p>
DC.10	<p align="center"><b>Damage to Company Facilities</b></p> <p>Pursuant to Section 5.4.6, RETAIL CUSTOMER'S DUTY REGARDING COMPANY'S FACILITIES ON RETAIL CUSTOMER'S PREMISES, charges for loss of, or damage to, Company Delivery System facilities on Retail Customer's Premises caused by or arising out of Retail Customer's failure to exercise reasonable care not to damage such facilities, including labor, material, equipment, legal services and associated costs including cost burdens, such as, overhead, warehousing, administration, etc.</p>	As Calculated
DC.11	<p align="center"><b>Adverse Effects and Improper Power Factor</b></p> <p>Pursuant to Section 5.5.2, INTERMITTENT ELECTRICAL LOADS AND LIMITATIONS ON ADVERSE EFFECTS and Section 5.5.5, POWER FACTOR, charges for labor, material, equipment, legal services and associated costs including cost of burdens, such as, overhead, warehousing, administration, etc. provided by the Company to correct adverse affects due to Retail Customer's equipment or operations, including improper power factor, voltage fluctuations, interference or distorted wave forms.</p>	As Calculated
DC.12	<p align="center"><b>Provision of Retail Customer Data</b></p> <p>Pursuant to Section 5.10.2, RETAIL CUSTOMER RESPONSIBILITY AND RIGHTS, charges for compiling, copying, printing, administration and sending customer data other than that required by Applicable Legal Authority to be provided at no charge.</p>	As Calculated
DC.13	<p align="center"><b>Customer Required Upgrade to Delivery System</b></p> <p>Pursuant to Section 5.7.6, CUSTOMER REQUESTED FACILITY UPGRADES, charges for the costs of a facility upgrade that is attributable to the Retail Customer adding load in excess of existing Delivery System facility capacity, if Company requires a contribution in aid of construction.</p>	As Calculated

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DC.14	<p align="center"><b>Temporary Service Connection</b></p> <p>Applicable to a request to energize a Retail Customer's temporary service connection to the Delivery System during normal business hours. Such requests, which include the corresponding TX SET code for standard service, and are received by Company at least two Business days prior to the Competitive Retailer's requested date, shall be completed no later than the requested date.</p>	\$ 168.00
DC.15	<p><b>Disconnect for Inaccessible Meter Charge</b></p> <p>Applicable when Company personnel is unable to gain access to the meter of a non-residential critical load premises as a result of continued denial of Access as provided in Section 4.7.2.1, DENIAL OF ACCESS BY RETAIL CUSTOMER.</p> <p>At the Meter: \$ 29.00 At a Premium Location: \$55.00</p>	
DC.16	<p align="center"><b>Miscellaneous – Retail Customer Caused Charges</b></p> <p>Applicable to charges authorized in Chapters 3, 4, and 5 which are not otherwise specifically set out in Chapter 6. These charges include, but are not limited to, legal services, material, labor, and equipment and associated costs including cost of burdens, such as, overhead, warehousing, administration, etc. required due to Retail Customer's actions or inaction. For example, Retail Customer's failure to exercise reasonable care, failure to correct problems or interference, or impeding Company's ability to perform its duties</p>	As Calculated
DC.17	<p align="center"><b>Miscellaneous Other Charges</b></p> <p>Company will charge for miscellaneous services, performed in accordance with Commission rules and at the request of a Retail Customer or Retail Customer's REP, an amount sufficient to recover the Company's cost or an engineering estimate thereof.</p>	As calculated
<b>AMS Related Charges:</b>		
DC.18	<p align="center"><b>AMS Standard Move-In</b></p> <p>Applicable to requests to energize a Retail Customer's connection to the Delivery System, provided the Retail Customer has an AMS meter equipped with Activated Remote Disconnect capability. If Retail Customer's connection to the Delivery System does not have an existing AMS meter equipped with Activated Remote Disconnect capability, DCS.1 charges shall apply. This charge includes Move-Out charge. This service is not available if inspections and permits, or other construction is required. Performance of this service will be governed by the time frames in DCS.1.</p>	\$2.00

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DC.19	<p align="center"><b>AMS Priority Move-In</b></p> <p>Applicable to requests to energize a Retail Customer's connection to the Delivery System, provided the Retail Customer has an AMS meter equipped with Activated Remote Disconnect capability. If Retail Customer's connection to the Delivery System does not have an existing AMS meter equipped with Activated Remote Disconnect capability, DCS.2 charges shall apply. This charge includes Move-Out charge. This service is not available if inspections and permits, or other construction is required. Performance of this service will be governed by the time frames in DCS.2.</p>	\$2.00
DC.20	<p align="center"><b>AMS Move-Out</b></p> <p>Applicable to requests to de-energize a Retail Customer's connection to the Delivery System, provided the Retail Customer has an AMS meter equipped with Activated Remote Disconnect capability. Performance of this service will be governed by the time frames in DCS.3.</p>	Charge applicable to requests to de-energize service on a move-out is included in the move-in charge.
DC.21	<p align="center"><b>AMS Disconnect for Non-Pay (AMS DNP)</b></p> <p>Applicable to requests from Competitive Retailer to de-energize service to Retail Customer due to Retail Customer's failure to pay charges billed by its Competitive Retailer or Company, provided that the Retail Customer has an AMS meter equipped with Activated Remote Disconnect capability. If Retail Customer's connection to the Delivery System does not have an existing AMS meter equipped with Activated Remote Disconnect capability, DCS.5 charges shall apply. Performance of this service will be governed by the time frames in DCS.5.</p> <p>If the DNP is performed by Company due to Retail Customer's non-payment of a charge billed directly by Company to the Retail Customer, or because the Retail Customer has not fulfilled its obligations under a contract entered into between Company and the Retail Customer, this charge shall not be billed to the Competitive Retailer.</p> <p>If Retail Customer's connection to the Delivery System does not have an existing AMS meter equipped with Activated Remote Disconnect capability or if Disconnect at Premium Location is required, DCS.5 charges shall apply.</p> <p>NOTE: Company shall not disconnect service to a residential customer on the Business Day immediately preceding a holiday.</p>	\$1.00
DC.22	<p align="center"><b>AMS Reconnect After DNP</b></p> <p>Applicable to requests to re-energize service to Retail Customer after Retail Customer has been disconnected for non-payment, provided that the Retail Customer has an AMS meter equipped with Activated Remote Disconnect capability. If Retail Customer's connection to the Delivery System does not have an existing AMS meter equipped with Activated Remote Disconnect capability, DCS.6 charges shall apply. Performance of this service will be governed by the time frames in DCS.6.</p>	\$1.00

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	<p>If Retail Customer's connection to the Delivery System does not have an existing AMS meter equipped with Activated Remote Disconnect capability or if Reconnect at Premium Location is required, DCS.6 charges shall apply.</p> <p>NOTE: In no event shall Company fail to reconnect service within 48 hours after a reconnection request is received.</p>	
DC.23	<p style="text-align: center;"><b>AMS Re-Reads</b></p> <p>Applicable to requests to re-read Retail Customer's Meter to verify the accuracy of Company's Meter Reading provided the Retail Customer has an AMS meter. Performance of this service will be governed by the time frames in DCS.8.</p> <p style="margin-left: 40px;">i. Meter Reading found to be in error</p> <p style="margin-left: 40px;">ii. Meter Reading found to be accurate</p>	<p style="text-align: right;">\$0.00</p> <p style="text-align: right;">\$1.00</p>
DC.24	<p style="text-align: center;"><b>AMS Out of Cycle Meter Read for the Purpose of a Switch</b></p> <p>Applicable to requests to read Retail Customer's Meter, provided that the Retail Customer has an AMS meter, on a date other than Company's regularly scheduled monthly Meter Reading date for the purpose of switching Retail Customer's account to a new Competitive Retailer. If Retail Customer's connection to the Delivery System does not have an existing AMS meter, the DCS.9 charge shall apply. The meter read shall be performed in accordance with Section 4.3.4, CHANGING OF DESIGNATED COMPETITIVE RETAILER. Performance of this service will be governed by the time frames in DCS.9.</p>	\$0.50



# Figure PDG-9

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Tariff Table of Contents And Rate Schedules

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**CHAPTER 6: COMPANY SPECIFIC ITEMS****6.1 RATE SCHEDULES****6.1.1 DELIVERY SYSTEM CHARGES****6.1.1.1 CHARGES FOR TRANSMISSION AND DISTRIBUTION SYSTEM SERVICE****6.1.1.1.1 RESIDENTIAL SERVICE****AVAILABILITY**

This schedule is applicable to Delivery Service for residential purposes of a permanent nature to individual private dwellings and to individually metered apartments when such Delivery Service is to one Point of Delivery and measured through one Meter and is not for shared or resale purposes.

**TYPE OF SERVICE**

Delivery Service will be single-phase, 60 hertz, at a standard secondary voltage. Delivery Service will be metered using Company's standard watt-hour Meter provided for this type of Delivery Service. Any other metering option(s) will be provided at an additional charge. Where Delivery Service of the type desired is not available at the Point of Delivery, additional charges and special contract arrangements may be required prior to Delivery Service being furnished, pursuant to Section 6.1.2.2, Construction Services, of this Tariff.

**MONTHLY RATE****I. Transmission and Distribution Charges:**

Customer Charge	\$2.09	per Retail Customer per Month
Metering Charge	\$1.79	per Retail Customer per Month
Transmission System Charge	\$0.005342	per kWh
Distribution System Charge	\$0.017648	per kWh

<b>II. System Benefit Fund Charge:</b>	\$0.000655	per kWh See Rider SBF
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<b>III. Transition Charge:</b>		See Schedules TC, TC2, and TC3
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<b>IV. Nuclear Decommissioning Charge:</b>	\$0.000054	per kWh See Rider NDC
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<b>V. Transmission Cost Recovery Factor:</b>	See Rider TCRF
<b>VI. Excess Mitigation Credit:</b>	Not Applicable
<b>VII. State Colleges and Universities Discount:</b>	See Rider SCUD
<b>VIII. Competition Transition Charge:</b>	Not Applicable
<b>IX. Other Charges or Credits:</b>	
A. Municipal Account Franchise Credit (see application and explanation below)	\$(.001780) per kWh
B. Rate Case Expenses Surcharge	See Rider RCE
C. Rider UCOS Retail Credit	See Rider RURC
D. Advanced Metering System Surcharge	See Rider AMS

**COMPANY SPECIFIC APPLICATIONS**

Residential Service. Where more than four family units or apartments are served through one Meter, billing will be under the applicable commercial Rate Schedule.

Service Voltages. Company's standard service voltages are described in 6.2.2, Standard Voltages and in the Company's Service Standards. Three phase service is not generally available to residential Retail Customers. Check with Company representative to determine if three phase service is available.

Municipal Account Franchise Credit. A credit equal to the amount of franchise fees included in the Transmission and Distribution Charges will be applied to municipal accounts receiving service within the incorporated limits of such municipality which imposes a municipal franchise fee upon the Company based on the kWh delivered within that municipality and who have signed an appropriate Franchise Agreement.

Revision Number: 8th

Effective: \_\_\_\_\_

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**NOTICE**

This Rate Schedule is subject to the Company's Tariff and Applicable Legal Authorities.

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**6.1.1.1.2 SECONDARY SERVICE LESS THAN OR EQUAL TO 10 KVA****AVAILABILITY**

This schedule is applicable to Delivery Service for non-residential purposes at secondary voltage with demand less than or equal to 10 kVA when such Delivery Service is to one Point of Delivery and measured through one Meter and is not for shared or resale purposes.

**TYPE OF SERVICE**

Delivery Service will be single-phase, 60 hertz, at a standard secondary voltage. Delivery Service will be metered using Company's standard watt-hour Meter provided for this type of Delivery Service. Any other metering option(s) will be provided at an additional charge and/or will be provided by a Meter Owner other than the Company pursuant to Applicable Legal Authorities. Where Delivery Service of the type desired is not available at the Point of Delivery, additional charges and special contract arrangements may be required prior to Delivery Service being furnished, pursuant to Section 6.1.2.2, Construction Services, in this Tariff.

**MONTHLY RATE****I. Transmission and Distribution Charges:**

Customer Charge	\$2.05	per Retail Customer per Month
Metering Charge	\$1.74	per Retail Customer per Month
Transmission System Charge	\$0.003945	per kWh
Distribution System Charge	\$0.016845	per kWh

**II. System Benefit Fund Charge:** \$0.000656 per kWh  
See Rider SBF

**III. Transition Charge:** See Schedules TC, TC2, and TC3

**IV. Nuclear Decommissioning Charge:** \$0.000030 per kWh  
See Rider NDC

**V. Transmission Cost Recovery Factor:** See Rider TCRF

**VI. Excess Mitigation Credit:** Not Applicable

**VII. State Colleges and Universities** See Rider SCUD

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Applicable: Entire Service Area

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<b>Discount:</b>		
<b>VIII. Competition Transition Charge:</b>		Not Applicable
<b>IX. Competitive Metering Credit:</b>		See Rider CMC
<b>X. Other Charges or Credits:</b>		
A. Municipal Account Franchise Credit (see application and explanation below)	\$(.002190)	Per kWh
B. Rate Case Expenses Surcharge		See Rider RCE
C. Rider UCOS Retail Credit		See Rider RURC
D. Advanced Metering System Surcharge		See Rider AMS

**COMPANY SPECIFIC APPLICATIONS**

Secondary Service Less Than or Equal to 10 kVA. This rate schedule is applicable only to Retail Customers whose current month's peak demand is 10 kVA or less and whose peak demand has not exceeded 10 kVA in any of the previous eleven months. If monthly peak demand is greater than 10 kVA, Retail Customer will be placed on the *Secondary Service Greater Than 10 kVA* Rate Schedule for a period of not less than twelve months. If this Rate Schedule is taken for Delivery Service for Electric Power and Energy supplied by Retail Customer's REP for standby or other intermittent purpose, Company may, at its sole discretion, require the Retail Customer to make additional contractual arrangements and/or require additional metering.

Service Voltages. Company's standard service voltages are described in 6.2.2, Standard Voltages and the Company's Service Standards.

Municipal Account Franchise Credit. A credit equal to the amount of franchise fees included in the Transmission and Distribution Charges will be applied to municipal accounts receiving service within the incorporated limits of such municipality which imposes a municipal franchise fee upon the Company based on the kWh delivered within that municipality and who have signed an appropriate Franchise Agreement.

Un-metered Service. Un-metered service is available for non-residential electric connection service at the discretion of the Company, Competitive Retailer, and Retail Customer, in limited situations when metering equipment is impractical or disproportionately expensive, and when the Retail Customer's electric load can be reasonably estimated or predicted from the nameplate or engineering studies of the installed equipment. Special protective devices may be required to be installed and/or paid for by customer. The "Metering Charge" contained in the monthly rate is not applicable to un-metered service.

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Applicable: Entire Service Area

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**NOTICE**

This Rate Schedule is subject to the Company's Tariff and Applicable Legal Authorities.

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**6.1.1.1.3 SECONDARY SERVICE GREATER THAN 10 KVA****AVAILABILITY**

This schedule is applicable to Delivery Service for non-residential purposes at secondary voltage with demand greater than 10 kVA when such Delivery Service is to one Point of Delivery and measured through one Meter.

**TYPE OF SERVICE**

Delivery Service will be single or three-phase, 60 hertz, at a standard secondary voltage. Delivery Service will be metered using Company's standard Meter provided for this type of Delivery Service. Any Meter other than the standard Meter will be provided at an additional charge and/or will be provided by a Meter Owner other than the Company pursuant to Applicable Legal Authorities. Where Delivery Service of the type desired is not available at the Point of Delivery, additional charges and special contract arrangements may be required prior to Delivery Service being furnished, pursuant to Section 6.1.2.2, Construction Services, in this Tariff.

**MONTHLY RATE****I. Transmission and Distribution Charges:**

	<u>Standard Class</u>	<u>Subclass Exception</u>	
Customer Charge	\$5.27	\$0.00	per Retail Customer per Month
Metering Charge			
Non-IDR Metered	\$31.86	\$17.07	per Retail Customer per Month
IDR Metered	\$116.89	\$116.89	per Retail Customer per Month
Transmission System Charge			
Non-IDR Metered	\$1.1027	\$1.1027	per NCP kVA
IDR Metered	\$1.4709	\$1.4709	per 4CP kVA
Distribution System Charge	\$3.132645	\$3.132645	per Billing kVa

The following charges are applicable to both the Standard Class and the Subclass Exception

<b>II. System Benefit Fund:</b>	\$ .000657	per kWh See Rider SBF
<b>III. Transition Charge:</b>		See Schedules TC, TC2, and TC3
<b>IV. Nuclear Decommissioning Charge:</b>	\$ .012087	per Billing kVA See Rider NDC
<b>V. Transmission Cost</b>		See Rider TCRF

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**Recovery Factor:**

- |   |                      |
|---|----------------------|
| <b>VI. Excess Mitigation Credit:</b>  | Not Applicable       |
| <b>VII. State Colleges and Universities Discount:</b>                         | See Rider SCUD       |
| <b>VIII. Competition Transition Charge:</b>                                   | Not Applicable       |
| <b>IX. Competitive Metering Credit:</b>                                       | See Rider CMC        |
| <b>X. Other Charges or Credits:</b>   |                      |
| A. Municipal Account Franchise Credit (see application and explanation below) | \$ (.002207) per kWh |
| B. Rate Case Expenses Surcharge   | See Rider RCE        |
| C. Rider UCOS Retail Credit   | See Rider RURC       |
| D. Advanced Metering System Surcharge   | See Rider AMS        |

**COMPANY SPECIFIC APPLICATIONS****DETERMINATION OF BILLING DEMAND FOR TRANSMISSION SYSTEM CHARGES**

**Determination of NCP kVA** The NCP kVA applicable under the Monthly Rate section shall be the kVA supplied during the 15 minute period of maximum use during the billing month.

**Determination of 4 CP kVA** The 4 CP kVA applicable under the Monthly Rate section shall be the average of the Retail Customer's integrated 15 minute demands at the time of the monthly ERCOT system 15 minute peak demand for the months of June, July, August and September of the previous calendar year. The Retail Customer's average 4CP demand will be updated effective on January 1 of each calendar year and remain fixed throughout the calendar year. Retail Customers without previous history on which to determine their 4 CP kVA will be billed at the applicable NCP rate under the "Transmission System Charge" using the Retail Customer's NCP kVA.



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Applicable: Entire Service Area

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### DETERMINATION OF BILLING DEMAND FOR DISTRIBUTION SYSTEM CHARGES

Determination of Billing kVA The Billing kVA applicable to the Distribution System Charge shall be the higher of the NCP kVA for the current billing month or 80% of the highest monthly NCP kVA established in the 11 months preceding the current billing month (80% ratchet). The 80% ratchet shall not apply to seasonal agricultural Retail Customers.

### OTHER PROVISIONS

Secondary Service Greater Than 10 kVA. This Rate Schedule is applicable only to Retail Customers whose peak demand for the current month is greater than 10 kVA, as measured in the fifteen minute period of highest demand, or whose peak demand exceeded 10 kVA in any of the previous eleven months, and that otherwise qualify under this Rate. This Rate Schedule is applicable to Delivery Service provided for Electric Power and Energy supplied by Retail Customer's REP for Temporary service subject to provisions of Section 6.1.2.2, Construction Services. The Electric Power and Energy delivered may not be re-metered or sub-metered by the Retail Customer for resale except pursuant to lawful sub-metering regulations of Applicable Legal Authorities. Retail Customer's previous metered usage under this or any other Rate Schedule will be used, as needed, in determining the billing determinants under the Monthly Rate section.

Subclass Exception. The Subclass Exception is applicable only to Retail Customers who otherwise qualify for the Secondary Service Greater Than 10 kVA rate schedule and either: (1) whose highest NCP kVa for the most recent 12 months is equal to or less than 50 kVA; or (2) whose highest NCP kVa for the most recent 12 months is greater than 50 kVA but less than or equal to 400 kVA and whose load factor was less than or equal to 10% for each of the most recent 12 months. The most recent 12 months ends with and includes the current month. The monthly load factor is determined as follows:

*load factor = billing kWh for the month/ (NCP kVA X number of days in billing period X 24)*

Service Voltages. Company's standard service voltages are described in 6.2.2, Standard Voltages and in the Company's Service Standards.

Municipal Account Franchise Credit. A credit equal to the amount of franchise fees included in the Transmission and Distribution Charges will be applied to municipal accounts receiving service within the incorporated limits of such municipality which imposes a municipal franchise fee upon the Company based on the kWh delivered within that municipality and who have signed an appropriate Franchise Agreement.

Adjustment To The Charges Applied To Retail Customer's Demand Measurement If data to determine the Retail Customer's *Demand Measurement* becomes no longer available, the Company

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will determine a *Conversion Factor* which will be used as an adjustment to all per unit charges that will then be applied to the *New Demand Measurement*. *Demand Measurement* shall include the Billing kVA, the 4 CP kVA, NCP kVA or any other demand measurement required for billing under this Rate Schedule or any applicable rider(s) or any other applicable schedule(s). *New Demand Measurement* shall be the billing determinants which replace the *Demand Measurement*. The *Conversion Factor* will apply to unit prices per kVA such that when applied to the *New Demand Measurement*, the revenue derived by the Company under demand based charges shall be unaffected by such lack of data.

This adjustment may become necessary because of changes in metering capabilities, such as, Meters that record and /or measure kW with no ability to determine kVA or Meters which meter data in intervals other than 15 minutes. This adjustment also may become necessary due to changes in rules, laws, procedures or other directives which might dictate or recommend that Electric Power and Energy, electric power related transactions, wire charges, nonbypassable charges and/or other transactions measure demand in a way that is inconsistent with the definitions and procedures stated in the Company's Tariff. This adjustment is applicable not only in the instances enumerated above but also for any and all other changes in *Demand Measurement* which would prevent the Company from obtaining the necessary data to determine the kVA quantities defined in this Rate Schedule, applicable Riders and other applicable schedules.

The Conversion Factor shall render the Company revenue neutral to any change in *Demand Measurement* as described above.

**NOTICE**

This Rate Schedule is subject to the Company's Tariff and Applicable Legal Authorities.

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**6.1.1.1.4 PRIMARY SERVICE****AVAILABILITY**

This schedule is applicable to Delivery Service for non-residential purposes at primary voltage when such Delivery Service is to one Point of Delivery and measured through one Meter.

**TYPE OF SERVICE**

Delivery Service will be single or three-phase, 60 hertz, at a standard primary voltage. Delivery Service will be metered using Company's standard Meter provided for this type of Delivery Service. Any Meter other than the standard Meter will be provided at an additional charge and/or will be provided by a Meter Owner other than the Company pursuant to Applicable Legal Authorities. Where Delivery Service of the type desired is not available at the Point of Delivery, additional charges and special contract arrangements may be required prior to Delivery Service being furnished, pursuant to Section 6.1.2.2, Construction Services, of this Tariff.

**MONTHLY RATE****I. Transmission and Distribution Charges:**

	Standard Class	Subclass <u>Exception</u>	
Customer Charge	\$88.65	\$0.00	per Retail Customer per Month
Metering Charge			
Non-IDR Metered	\$31.66	\$16.97	per Retail Customer per Month
IDR Metered	\$116.17	\$116.17	per Retail Customer per Month
Transmission System Charge			
Non-IDR Metered	\$1.514	\$1.514	per NCP kVA
IDR Metered	\$1.503	\$1.503	per 4CP kVA
Distribution System Charge	\$2.919265	\$2.919265	per Billing kVA

The following charges are applicable to both the Standard Class and the Subclass Exception.

<b>II. System Benefit Fund:</b>	\$ .000641	per kWh See Rider SBF
<b>III. Transition Charge:</b>		See Schedules TC, TC2, and TC3
<b>IV. Nuclear Decommissioning Charge:</b>	\$ .015802	per Billing kVA See Rider NDC
<b>V. Transmission Cost</b>		See Rider TCRF

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**Recovery Factor:**

<b>VI. Excess Mitigation Credit:</b>	Not Applicable
<b>VII. State Colleges and Universities Discount:</b>	See Rider SCUD
<b>VIII. Competition Transition Charge:</b>	Not Applicable
<b>IX. Competitive Metering Credit:</b>	See Rider CMC
<b>X. Other Charges or Credits:</b>	
A. Municipal Account Franchise Credit (see application and explanation below)	\$(.002080) per kWh
B. Rate Case Expenses Surcharge	See Rider RCE
C. Rider UCOS Retail Credit	See Rider RURC
D. Advanced Metering System Surcharge	See Rider AMS

**COMPANY SPECIFIC APPLICATIONS****DETERMINATION OF BILLING DEMAND FOR TRANSMISSION SYSTEM CHARGES**

**Determination of NCP kVA** The NCP kVA applicable under the Monthly Rate section shall be the kVA supplied during the 15 minute period of maximum use during the billing month.

**Determination of 4 CP kVA** The 4 CP kVA applicable under the Monthly Rate section shall be the average of the Retail Customer's integrated 15 minute demands at the time of the monthly ERCOT system 15 minute peak demand for the months of June, July, August and September of the previous calendar year. The Retail Customer's average 4CP demand will be updated effective on January 1 of each calendar year and remain fixed throughout the calendar year. Retail Customers without previous history on which to determine their 4 CP kVA will be billed at the applicable NCP rate under the "Transmission System Charge" using the Retail Customer's NCP kVA.

**DETERMINATION OF BILLING DEMAND FOR DISTRIBUTION SYSTEM CHARGES**

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Applicable: Entire Service Area

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Determination of Billing kVA The Billing kVA applicable to the Distribution System Charge shall be the higher of the NCP kVA for the current billing month or 80% of the highest monthly NCP kVA established in the 11 months preceding the current billing month (80% ratchet). The 80% ratchet shall not apply to seasonal agricultural Retail Customers.

### OTHER PROVISIONS

Primary Service This rate schedule is applicable only to Retail Customers taking service directly from feeder lines of at least 12,470 volts but less than 60,000 volts. This rate schedule is applicable to Delivery Service provided for Electric Power and Energy supplied by Retail Customer's REP for Temporary service subject to the provisions of Section 6.1.2.2, Construction Services in this Tariff. The Electric Power and Energy delivered may not be re-metered or sub-metered by the Retail Customer for resale except pursuant to lawful sub-metering regulations of Applicable Legal Authorities. Retail Customer's previous metered usage under this or any other Rate Schedule will be used, as needed, in determining the billing determinants under the Monthly Rate section.

Subclass Exception. The Subclass Exception is applicable only to Retail Customers who otherwise qualify for the Primary Service Rate Schedule and either: (1) whose highest NCP kVA for the most recent 12 months is greater than 10 kVA but less than or equal to 50 kVA; or (2) whose highest NCP kVA for the most recent 12 months is greater than 50 kVA but less than or equal to 400 kVA and whose Load Factor was less than or equal to 10% for each of the most recent 12 months. The most recent 12 months ends with and includes the current month. The monthly Load Factor is determined as follows:

*Load Factor = billing kWh for the month/ (NCP kVA X number of days in billing period X 24)*

Service Voltages Company's standard service voltages are described in 6.2.2, Standard Voltages and in the Company's Service Standards.

Municipal Account Franchise Credit A credit equal to the amount of franchise fees included in the Transmission and Distribution Charges will be applied to municipal accounts receiving service within the incorporated limits of such municipality which imposes a municipal franchise fee upon the Company based on the kWh delivered within that municipality and who have signed an appropriate Franchise Agreement.

Adjustment To The Charges Applied To Retail Customer's Demand Measurement If data to determine the Retail Customer's *Demand Measurement* becomes no longer available, the Company will determine a *Conversion Factor* which will be used as an adjustment to all per unit charges that will then be applied to the *New Demand Measurement*. *Demand Measurement* shall include the Billing kVA, the 4 CP kVA, NCP kVA or any other demand measurement required for billing under this Rate Schedule or any applicable Rider(s) or any other applicable schedule(s). *New Demand Measurement* shall be the billing determinants which replace the *Demand Measurement*. The *Conversion Factor* will apply to unit prices per kVA such that when applied to the *New*

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Applicable: Entire Service Area

CNP 8018

*Demand Measurement*, the revenue derived by the Company under demand based charges shall be unaffected by such lack of data.

This adjustment may become necessary because of changes in metering capabilities, such as, Meters that record and /or measure kW with no ability to determine kVA or Meters which meter data in intervals other than 15 minutes. This adjustment also may become necessary due to changes in rules, laws, procedures or other directives which might dictate or recommend that Electric Power and Energy, electric power related transactions, wire charges, nonbypassable charges and/or other transactions measure demand in a way that is inconsistent with the definitions and procedures stated in the Company's Tariff. This adjustment is applicable not only in the instances enumerated above but also for any and all other changes in *Demand Measurement* which would prevent the Company from obtaining the necessary data to determine the kVA quantities defined in this Rate Schedule, applicable Riders and other applicable schedules.

The Conversion Factor shall render the Company revenue neutral to any change in *Demand Measurement* as described above.

Metering Adjustment The Company may at its option measure service on the secondary side of the Retail Customer's transformers in which event the kVA and kWh recorded by the Billing Meter will be adjusted to compensate for transformer losses as follows: (1) where the Retail Customer's installed substation capacity is 600 kVA or less, the kVA will be increased by 2% and the kWh will be increased by 3%; or (2) where the Retail Customer's installed substation capacity is in excess of 600 kVA, the kVA and kWh will be increased by proper respective adjustments based upon data furnished by the manufacturer. In the event the manufacturer is unable to supply the necessary data, the adjustment will be based on tests conducted on the Retail Customer's transformers by the Company.

**NOTICE**

This Rate Schedule is subject to the Company's Tariff and Applicable Legal Authorities.

# AFFIDAVIT


The State of Texas §

County of Harris §

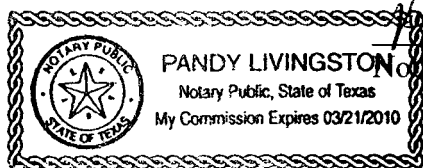
## SWORN STATEMENT OF PAUL D. GASTINEAU

My name is Paul D. Gastineau. I am an authorized representative of CenterPoint Energy Houston Electric, LLC.

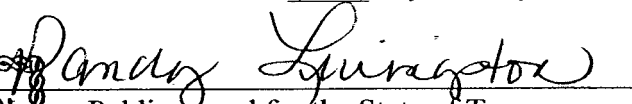
I swear or affirm that I have personal knowledge of the facts in the testimony and/or figures/exhibits/attachments that I am sponsoring in this application for an advanced metering system surcharge, and that I am competent to testify to them. I further swear or affirm that all of the statements and representations made in this testimony are true and correct.

  
Paul D. Gastineau

SWORN TO AND SUBSCRIBED before me on the 1st day of May, 2008.



(SEAL)

  
Pandey Livingston  
Notary Public in and for the State of Texas

## SCHEDULE I

### ITRON

CenterPoint Energy (CNP) Advanced Metering for Electric Implementation Itron, Inc. dated March 20, 2008 (redacted)

The unredacted copy of this schedule is confidential and is being filed under seal. To make arrangements to receive a copy of this material pursuant to the protective order in this docket, please contact Ms. Linda Johnston in Houston at (713) 207-5218.



# **CenterPoint Energy (CNP)**

**Advanced Metering**

**for**

**Electric Implementation**

**Itron, Inc.**

**March 20, 2008**



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ITRON, INC.  
SYSTEM SALES AGREEMENT

This Agreement dated \_\_\_\_\_, 2007, to be effective as of the Effective Date (as defined below) is between Itron, Inc., a Washington corporation ("Itron") and **CenterPoint Energy Houston Electric, LLC** ("Customer").

WHEREAS, Itron is in the business of designing, manufacturing, licensing and selling, certain computer products, generally known as "System" products, for the purpose of automated reading of meters; and WHEREAS, Customer desires to purchase System products for the purpose of automated reading of its meters; and

WHEREAS, Itron desires to sell such System products to Customer, on the terms and subject to the conditions in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1 **DEFINITIONS**

Capitalized terms used in this Agreement, along with its applicable Statements of Work, shall have the meanings assigned to them hereunder. Capitalized terms used in this Agreement that are not defined shall have the meaning given them in the context of their use herein.

1.1 Acceptance shall mean that Customer has signed off and agreed that the System or Hardware is properly installed and functionally operating in accordance with Statement of Work provisions.

1.2 Affiliate shall mean with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, "control" means, when used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract, or otherwise, and the terms "controlling" and "controlled" have correlative meanings.

1.3 Agreement shall mean, collectively, this Agreement between Customer and Itron, the terms and conditions incorporated

herein, Statements of Work associated with this Agreement, and other documents, if any, that are by reference made a part of this Agreement and provide for signature of a duly authorized representative of each party hereto.

1.4 Agreement Cover Sheet shall mean the document labeled Master Agreement with an assigned Contract Number, which acts as a preamble document for the various attachments that make up this Agreement.

1.5 Confidential Information shall mean information which is non-public, confidential and/or proprietary in nature, including all customer information, all employee information, all proposals, business plans, marketing plans, manuals, financial information, drawings, specifications, works in progress, compilations, studies, agreements, memoranda, data, materials, products, know-how, technology, computer software, reports, interpretations, forecasts, records and documents, or analyses or summaries of the above, containing or otherwise reflecting information concerning a party, its employees or customers, is furnished in written or graphic form or disclosed orally or electronically, by or on behalf of a party, and which is designated as Confidential Information

- in writing by such party.
- 1.6 Effective Date shall mean the date of the first business day following the approval of the Board of Directors of Customer (the "Board") of the transactions contemplated hereby following rendition of an Order of the Public Utility Commission of Texas (PUCT), acceptable to the Board in its sole discretion, relating to Customer's application for approval of a deployment plan and cost recovery surcharge for advanced metering pursuant to Tex. Util. Code Ann. §39.107(h) and PUCT Subst. R. §25.130.
- 1.7 Environmental Laws shall mean all applicable federal, state, and local administrative, civil and criminal laws, permits, regulations, rules, ordinances, codes, decrees, judgments, injunctions, directives, or judicial or administrative orders relating to (a) the pollution, contamination, preservation, cleanup, restoration, remediation or protection of the environment, air, surface water, ground water or other natural resources, or human health and safety; (b) exposure to toxic or hazardous substances; (c) the safety or health of employees or subcontractors of any tier; or (d) noise.
- 1.8 Equipment shall mean the components and devices listed on Attachment A-1 hereto, designed and manufactured by Itron for the System and sold to Customer pursuant to this Agreement.
- 1.9 Governmental Authority shall mean any federal, state, local or municipal governmental body or agency or subdivision thereof, including, but not limited to, any legislative or judicial body having jurisdiction to exercise authority or control over Customer or Itron, its parent corporation, or any part or all of the work to be performed under this Agreement.
- 1.10 Hardware shall mean the Equipment plus Third-Party Equipment.
- 1.11 Hazardous Materials shall mean any pollutant, contaminant, petroleum or petroleum product, dangerous or toxic substance, hazardous or extremely hazardous substance or chemical, or otherwise hazardous material or waste regulated under Environmental Laws, including without limitation any batteries and the contents thereof; and any other material causing a nuisance by its presence, odor, sound, emission or other characteristic.
- 1.12 Installation shall have the meaning set forth in the Statement of Work under Work Order Data File Validation.
- 1.13 Licensed Software shall mean the Itron program products in binary form listed on Attachment A-1 hereto, and any subsequent modifications, corrections or revisions to the program products furnished to Customer by Itron.
- 1.14 Device Failure Rate shall mean the number of OpenWay Devices that have failed during a calendar year divided by the deployed population of electric OpenWay devices during such calendar year.
- 1.15 Notice shall mean any formal written correspondence providing notice of action, purpose, intent or the like given under the provisions of this Agreement. General correspondence is not categorized as Notice.
- 1.16 OpenWay Device shall mean an Itron OpenWay meter or an Itron OpenWay Cell Relay.
- 1.17 Person shall mean any individual, corporation, general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or governmental body.
- 1.18 Personnel shall mean Itron's or Customer's employees or subcontractor employees performing Work under this Agreement.
- 1.19 Related Documentation shall mean any human-readable program listings, flow charts, input and output forms, manuals, specifications, instructions, and other materials, and any copies of any of the foregoing, in any medium, related to the

- Equipment and/or Licensed Software and delivered to the Customer in accordance with the provisions of this Agreement.
- 1.20 Releases shall mean any discharge, emission, spilling, leaking, pumping, pouring, injecting, dumping, burying, leaching, migrating, abandoning or disposing into or through the environment of any Hazardous Material including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Material.
- 1.21 Statement of Work ("SOW") shall mean a description of activities, tasks, and responsibilities of Itron and Customer as set forth in Attachment B.
- 1.22 Services shall mean the activities performed by Itron to install the System, train Customer's personnel on the functions, installation and use of the System, and any other services as described in the Statement of Work. The charges associated with such activities are listed on Attachment A-1.
- 1.23 Software shall mean the Licensed Software plus Third-Party Software.
- 1.24 Subcontractor shall mean any person, firm, partnership, association, joint venture, company, corporation or other entity, other than an Affiliate, engaged by Itron or Customer to provide any part of the Work under this Agreement.
- 1.25 System shall mean all Hardware, Software and Related Documentation sold and licensed to Customer pursuant to this Agreement.
- 1.26 Third-Party Equipment shall mean the components and devices listed on Attachment A-1 hereto, designed and manufactured by any person or entity other than Itron, but which is part of the System and sold to Customer pursuant to this Agreement.
- 1.27 Third-Party Software shall mean the program products listed on Attachment A-1 hereto, designed and manufactured by any person or entity other than Itron, but which is part of the System and

licensed to Customer pursuant to this Agreement.

2 **PRICING & PAYMENT SCHEDULE**

- 2.1 Customer's forecasts, shipment requirements and the pricing and payment terms for the System are as described in Appendix A, "Pricing & Payment Schedule". Pricing is described in Attachment A-1.

3 **NEW PRODUCTS**

- 3.1 Itron has the right to modify or substitute new products or models for the Hardware and Software, provided that such new or modified products meet or exceed the Itron specifications and do not adversely affect the fundamental operation of the System or technical functionality. Itron agrees to give Customer ninety (90) days notice before any such substitution is made.

4 **SCHEDULE COMMITMENTS**

- 4.1 Schedule Commitments, Delivery & Installation guarantees, and Remedies are addressed in the Statement of Work documents under Area Schedule and Deliverables and Schedule Management; provided, however, that in no event shall Itron perform any work under, nor shall Customer be liable in connection with, this Agreement or the Statement of Work unless and until the Board shall have approved the transactions contemplated hereunder following the rendition of an Order of the PUCT, acceptable to the Board in its sole discretion, relating to Customer's application for approval of a deployment plan and cost recovery surcharge for advanced metering pursuant to Tex. Util. Code Ann. §39.107(h) and PUCT Subst. R. §25.130.

5 **WARRANTIES AND EXCLUSION OF WARRANTIES**

- 5.1 Service Warranty. Itron warrants that (a) it shall use sound and professional

principles and practices in accordance with consistently accepted industry standards in the performance of Work hereunder; (b) performance of its Personnel shall reflect sound professional knowledge, skill and judgment; and (c) Itron shall perform the Services in accordance with applicable laws, rules and regulations and the Statement of Work. If any failure to meet the foregoing warranties occurs, Customer must promptly notify Itron in writing within one hundred and twenty (120) days of performance of the Services to receive warranty remedies. For breach of this warranty, Itron's sole liability and Customer's exclusive remedy shall be Itron

5.2

OpenWay Device Warranty Provisions. Itron warrants that, for [REDACTED] years from date of Installation of the first OpenWay Device and under normal use, each OpenWay Device shall be free from defects in material and workmanship, and shall be of commercial grade. Itron will provide

[REDACTED] OpenWay Device to replace all OpenWay Devices that fail to meet the aforementioned warranty.

5.3

One-Year Equipment & Licensed Software Warranty Provisions. Itron warrants for one (1) year from date of Installation and under normal use, that all other Equipment shall be free from defects in material and workmanship and the Licensed Software (including firmware) shall perform substantially in accordance with the Itron specifications. Itron will maintain Licensed Software under warranty in accordance with the Licensed Software Maintenance Policy which is referenced in the Itron Maintenance Agreement.

5.4

Warranty Remedies. If any Equipment or Licensed Software is returned by Customer to a location designated by Itron during the applicable warranty period and Itron determines that the Equipment or Licensed Software fails to meet the applicable warranty, such Equipment or Licensed Software will be repaired or replaced free of charge and returned to Customer, F.O.B. Customer's Installation site. Transportation charges will be paid by Customer for Equipment or Licensed Software sent to Itron under warranty and paid by Itron when Equipment or Licensed Software is repaired or replaced under warranty and returned to Customer. Any such repaired or replaced Equipment or Licensed Software or part thereof shall be covered for the remainder of the applicable original warranty period set forth above. If Itron is unable to repair or replace defective Equipment and Licensed Software, Itron shall refund to Customer the price paid by Customer for such product. Repairs or replacements necessitated by inadequate maintenance, acts of God, normal wear and tear or fault of Customer or its agents or contractors shall be at Customer's sole

- expense.
- 5.5 Third-Party Warranties. Itron agrees to pass through to Customer all available warranties offered by third-party manufacturers applicable to Third Party Equipment and Third Party Software purchased or licensed under this Agreement.
- 5.6 Implied Warranties Of Merchantability. THE WARRANTIES SET FORTH IN THIS SECTION 5 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. ITRON AND CUSTOMER AGREE THAT CUSTOMER'S EXCLUSIVE REMEDY AND ITRON'S SOLE LIABILITY FOR ANY BREACH OF ANY OF SUCH LIMITED WARRANTIES IS AS SET FORTH ABOVE.
- 5.7 Environmental Issues. Itron shall comply with all applicable federal, state and local laws, rules and regulations with respect to environmental practices undertaken pursuant to its performance of this Agreement. Itron shall not bring, store or utilize any hazardous materials on any Customer site without the prior express written consent of Customer. To the extent reasonably practicable, Itron shall restore any property altered pursuant to its performance under this Agreement to its original condition. Customer shall have no obligation to correct or restore any property altered by Itron and shall bear no responsibility for Itron's compliance or non-compliance with applicable environmental laws, rules and regulations.
- 5.8 Environmental Indemnity. IN ADDITION TO ANY OTHER INDEMNITIES HEREIN, ITRON
- AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD CUSTOMER, ITS CORPORATE AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FREE AND HARMLESS FROM AND AGAINST, ANY AND ALL LIABILITIES, DAMAGES, LOSSES, CLAIMS, DEMANDS, JUDGMENTS, COSTS, AND EXPENSES (INCLUDING THE REASONABLE COST OF DEFENSE THEREOF AND REASONABLE ATTORNEYS' FEES ACTUALLY INCURRED) INCURRED OR SUFFERED BY CUSTOMER, ITS CORPORATE AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, ARISING OUT OF (a) ANY RELEASE(S) OF HAZARDOUS OR HARMFUL MATERIALS TO THE EXTENT CAUSED BY OR ARISING FROM THE ACTS OR OMISSIONS OF ITRON OR ITS REPRESENTATIVES; (b) ANY DISPOSAL, TRANSPORTATION, SHIPPING OR ARRANGEMENT FOR DISPOSAL OF HAZARDOUS MATERIALS HANDLED BY ITRON OR ITS REPRESENTATIVES; OR (c) ANY VIOLATION OF ENVIRONMENTAL LAWS BY ITRON.
- 5.9 Faulty Installation or Programming Notwithstanding the foregoing, Itron shall have no liability or obligation because of faulty installation or programming of the Equipment or Licensed Software if such installation or programming was not performed by Itron or because of use of Licensed Software on a system configuration not designed by Itron, normal wear and tear, improper operation or maintenance contrary to Itron's instructions, or alterations, repairs or modifications by someone other than Itron without Itron's approval, or because of damages or



accidents caused by improper or violent treatment, excessive strain or use of improper materials. Itron shall have no obligation under this paragraph or otherwise under this Agreement for correcting any damages to the Equipment or Licensed Software as a result of any of the foregoing, but if such services are available, they can be provided by Itron under this Agreement at Itron's then applicable time and material charges and travel expenses.

5.10 Meter Photographing. Itron agrees to photograph and log in accordance with the specifications outlined in the Statement of Work documents.

6 **SERVICE AFTER WARRANTY**

6.1 The Equipment and Licensed Software are eligible for service under Itron's standard service and support agreement. The fee for service shall be at Itron's then negotiated rates. At Customer's option, the service agreement may commence on the date of expiration of the initial warranty period for the Equipment or Licensed Software.

7 **PERFORMANCE GUARANTEES**

7.1 Itron is committed to provide a system of automated reading of meters to Customer that perform in accordance with the requirements as described in this Agreement (within the infrastructure of Customer and its affiliates from the operation of the power grid down to the ZigBee based home applications).

7.1.1 Attainment of the Performance Guarantees with respect to the as-built System will be assessed periodically, but no more frequently than every [REDACTED], as required by Customer.

7.1.2 If, within [REDACTED] days following the deployment of the last meter, the actual performance of the System products do not satisfy the System Performance Criteria, Appendix G, Customer will notify Itron of the problem. If Itron and

Customer confirm that the System does not perform according to the criteria stated above, Itron, [REDACTED], will provide the following remedies:

- Implement [REDACTED] system tuning to bring the System into conformance with the System Performance Criteria.
- If, within [REDACTED] days of the initial notice of problem from Customer, the System does not operate according to the criteria stated above, Itron will [REDACTED] take such additional steps, including modification or addition of hardware or software, as required to achieve the guaranteed performance within a commercially reasonable time, not to exceed [REDACTED]

- [REDACTED]

7.2 To the extent any Materials or equipment provided as part of the Work is provided under any other agreement between Customer and Itron, the performance provisions of this Agreement shall apply.

8 **INDEMNITY**

8.1 ITRON AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD CUSTOMER, ITS CORPORATE AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FREE AND HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, LOSSES, CLAIMS, DEMANDS, JUDGEMENTS, COSTS, AND EXPENSES (INCLUDING THE REASONABLE COST OF DEFENSE

THEREOF AND REASONABLE ATTORNEY'S FEES ACTUALLY INCURRED) INCURRED OR SUFFERED BY CUSTOMER, ITS CORPORATE AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, ARISING OUT OF OR IN CONNECTION WITH THE SERVICES PERFORMED OR TO BE PERFORMED BY ITRON AND EQUIPMENT PROVIDED BY ITRON HEREUNDER OR OCCURRING, INCIDENT TO, ARISING OUT OF OR IN CONNECTION WITH THE PRESENCE OF ITRON OR ITRON'S PERSONNEL, AGENTS, CONTRACTORS AND SUBCONTRACTORS INCLUDING THEIR RESPECTIVE PERSONNEL ON THE PREMISES, [REDACTED]

[REDACTED] CUSTOMER WILL PROVIDE ITRON PROMPT NOTICE OF THE CLAIM AND WILL PROVIDE ASSISTANCE IN DEFENSE OF THE CLAIM AS REQUESTED BY ITRON.

- 8.2 Itron may elect to defend (and, unless Itron has specified any reservations or exceptions, to seek to settle or compromise), at Itron's own expense and by Itron's own counsel, any third party claim. Within 30 days after the receipt of notice from Customer (or sooner, if the nature of such third party claim so requires), Itron shall notify Customer of its election whether Itron will assume responsibility for defending such third party claim, which election shall specify any reservations or exceptions. After notice from Itron to

Customer of its election to assume the defense of a third party claim, Customer shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, but the fees and expenses of such counsel shall be the expense of Customer except as set forth in the next sentence. In the event that Itron has elected to assume the defense of the third party claim but has specified, and continues to assert, any reservations or exceptions in such notice, then, in any such case, the reasonable fees and expenses of separate counsel for Customer (retained by Customer, in its sole discretion) shall be borne [REDACTED]. If Itron elects not to assume responsibility for defending a third party claim, or fails to timely notify Customer of its election, Customer may defend such third party claim at the cost and expense of Itron [REDACTED].

[REDACTED] Unless Itron has failed to assume the defense of the third party claim in accordance with the terms of this Agreement, Customer may not settle or compromise any third party claim without the consent of Itron. Itron shall not consent to entry of any judgment or enter into any settlement of a third party claim without the consent of Customer if the effect thereof is to permit any injunction, declaratory judgment, other order or other nonmonetary relief to be entered, directly or indirectly, against Customer.

#### INSURANCE REQUIREMENTS

- 9 Itron agrees to procure and to maintain in full force and effect, at Itron's sole expense, insurance of the following types and amounts, written by insurance companies satisfactory to Customer, authorized to do business in the state where the work is being performed, and having an A.M. Best's Rating of not less than "[REDACTED]":
- 9.1 Workers' Compensation and

- Employers' Liability - Itron shall carry statutory Workers' Compensation Insurance covering Itron's employees in compliance with all requirements of the Workers' Compensation laws of all states in which Itron performs work hereunder.
- 9.3 In addition, Itron shall carry Employer's Liability Insurance covering all operations and work hereunder in an amount not less than the following:
- |                            |             |
|----------------------------|-------------|
| Each Accident              | \$1,000,000 |
| Each Disease Each Employee | \$1,000,000 |
| Disease Policy Limit       | \$1,000,000 |
- 9.4 In addition, Itron shall carry insurance in compliance with the U.S. Longshoreman's and Harbor Worker's Act, Outer Continental Shelf Act and covering Jones Act liability, if Itron's performance hereunder involves marine exposures.
- 9.5 General Liability Insurance - Itron shall carry general liability insurance on a form no less broad than the coverage provided by a "Commercial General Liability Insurance" form (dated 1985 or thereafter) promulgated by the Insurance Services Office, and containing language affording coverage for contractual liability, the products and completed operations hazards, broad form property damage liability, and the explosion, collapse and underground hazards, as respects all operations and work hereunder, for all liability arising out of injury to or death of one or more persons, and injury to or destruction of property, in any one occurrence, in amounts not less than:
- |                               |              |
|-------------------------------|--------------|
| General Aggregate             | \$ 2,000,000 |
| Products - Comp/Ops Aggregate | \$ 1,000,000 |
| Personal & Advertising Injury | \$1,000,000  |
| Each Occurrence               | \$1,000,000  |
- 9.5.1 Products Liability Insurance - Itron shall carry Products Liability Insurance to cover Bodily Injury and Property Damage in amounts not less than \$1,000,000.
- 9.5.2 Cyber Liability Insurance - Itron shall provide \$10,000,000 in Cyber Liability Insurance to cover Security, Business Interruption, Cyber Extortion, and Denial of Service.
- 9.6 Automobile Liability Insurance - Itron shall carry Automobile Liability Insurance on a form no less broad than the coverage provided by a Business Automobile Liability Insurance form (dated 1985 or thereafter) promulgated by the Insurance Services Office, on all owned or hired autos, as well as non-owned autos, in an amount not less than \$1,000,000 combined single limit, for all liability arising out of injury to or death of one or more persons, and injury to or destruction of property, in any one occurrence.
- 9.7 Excess Liability Insurance - Itron shall carry Excess Liability Insurance that follows the form of the underlying primary liability insurance required by Sections 9.2 (Employers Liability only), 9.5, 9.5.1, and 9.5.1, in an amount not less than \$50,000,000 per occurrence and \$50,000,000 in the aggregate.
- 9.8 Professional Liability Insurance - Itron shall carry Professional Liability Insurance for the services provided hereunder, in an amount not less than \$5,000,000 per claim and \$10,000,000 in the aggregate.
- 9.9 Deductibles - Any and all deductibles, or self-insured retentions, of all insurance policies required hereunder shall be assumed by, for the account of, and at the Itron's sole risk and expense, and shall not be billed to or payable by Customer, or its subsidiaries and affiliates.
- 9.10 Additional Insureds - The insurance required by Sections 9.5, 9.5.1 and 9.7 shall include Customer, including its subsidiaries and affiliates, as additional insureds with respect to all operations and work hereunder, and shall include language providing:
- 9.10.1 that such insurance applies separately to each insured against whom claim is

- made or suit is brought; and
- 9.10.2 coverage to CenterPoint Energy, Inc., including its subsidiaries and affiliates, no less broad than one or the other of the following alternatives: (a) the coverage afforded to the named insured under the policy with respect to the work or services to be performed hereunder; or (b) the coverage afforded by the combination of Insurance Services Office Endorsements' GC 20 33 07 04 (entitled "Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required in Construction Agreement with You) and GC 20 37 07 04 (entitled "Additional Insured - Owners, Lessees or Contractors - Completed Operations"); and, that such insurance shall respond as primary insurance and shall not contribute with any other valid and collectible other insurance that may be maintained by Customer, or its subsidiaries and affiliates.
- 9.11 Waiver of Subrogation - The insurance required by Sections 9.2, 9.5, 9.5.1, 9.7 and 9.8 shall include full waivers of subrogation in favor of Customer, including its subsidiaries and affiliates, unless waiver of subrogation is prohibited by the law governing such insurance.
- 9.12 Certificates of Insurance - Itron shall furnish Customer with Certificates of Insurance signed by Itron's insurance agent, showing Itron's procurement of the insurance required hereunder. Each such Certificate shall accurately reflect insurance in place, shall be in a form satisfactory to Customer, and shall contain language:
- 9.12.1 Expressly and specifically referring to this contract, "Contract Number, P.O. Number or unique reference \_\_\_\_\_"; (the agreement to which this is attached)
- 9.12.2 Providing that thirty (30) days written notice (except ten (10) days written notice in the case of nonpayment of premium) shall be given to Customer prior to cancellation of or material change in the coverage (and, the word "endeavor" or similar term used in the standard Accord form shall be stricken);
- 9.12.3 Confirming that Customer, including subsidiaries and affiliates, are Additional Insureds, as required by Section 9.8 hereof;
- 9.12.4 Confirming Waiver of Subrogation in favor of Customer, including its subsidiaries and affiliates, as required by Section 9.9 hereof; and,
- 9.12.5 Attaching the language or endorsement(s) by which Customer, including its subsidiaries and affiliates, is made an additional insured and coverage is primary and non-contributing
- 9.13 Claims-Made Insurance - If the insurance required hereunder is procured on a form affording "claims-made" coverage, then (i) all limits stated above as "per occurrence" shall be understood to mean "per claim" or "per occurrence," as is consistent with the terms of the "claims-made" policy; and, (ii) such claims-made insurance shall not provide for a retroactive date later than the commencement of Itron's performance hereunder.
- 9.14 Reinstatement of Impaired Limits - In the event that the required aggregate limits of liability of any insurance required hereunder are reduced or impaired by 50% or more, then Itron shall give Customer notice of the impairment and promptly cause such impaired limits to be reinstated to the required limits.
- 9.15 Subcontractors' Insurance - Itron shall cause its subcontractors, including all persons hired by Itron who are not Itron's employees, who perform any part of the work hereunder, to procure and to maintain in full force and effect insurance of the types and amounts, and meeting the requirements described in Sections 9.2, 9.5, and 9.5.1, and 9.8 and 9.9, above. In addition, subcontractors shall comply with Sections 9.11 and /or

- 9.12, if applicable.
- 9.16 Term of Required Insurance. All terms of these insurance requirements shall survive termination of this contract and shall continue until thirty (30) days past the final completion of all Services to be provided hereunder, including the performance of any warranty work. In addition, Itron shall maintain in force and effect completed operations coverage under the insurance policies required by Sections 9.5 and 9.7, and any "claims-made" coverage within Section 9.13, for a minimum of two (2) years after final completion of all services to be provided hereunder. Itron shall purchase an extended reporting period, or "tail coverage," if necessary to comply with the latter requirement.
- 9.17 No Waiver by Customer - Customer's failure to provide insurance as required hereunder, or Customer's failure to supply Certificates of Insurance that comply with Section 9.12, above, or the failure of Customer to require evidence of insurance or to notify Customer of any breach by Customer of the requirements of these provisions or deficiencies in the insurance obtained, shall not constitute a waiver by Customer of any of the these insurance requirements, or a waiver of any other terms and conditions of this contract, including Customer's obligations to defend, indemnify, and hold harmless Customer (including subsidiaries and affiliates), as required herein.
- 9.18 The foregoing insurance requirements are minimum requirements intended to benefit Customer, shall not be interpreted to limit Itron's liability to Customer, or to its subsidiaries and affiliates, in any manner whatsoever; and, are separate from and independent of Itron's other obligations under this contract, including Itron's obligations to defend, indemnify and hold harmless Customer, and its subsidiaries and affiliates.
- 9.19 Retainage - Customer will have the right

to retain out of any amount then due Itron, [REDACTED] of such amount, up to an aggregate amount not to exceed [REDACTED], as security to indemnify Customer against any lien or claim for services performed, or materials, machinery, and equipment furnished, in connection with the Services. That amount will be released by Customer to Itron when Itron completes and delivers to Customer a full and complete release of claims from all persons who have furnished services or materials, machinery, and equipment in connection with the Services.

10 **CONFIDENTIALITY**

10.1 Personnel furnished under the terms of this Agreement may have knowledge of and become familiar with Confidential Information of the other party. With the exception of Section 10.5 below, without the prior written consent of the party designating such information as confidential, Confidential Information shall not be disclosed by either party except to current employees or contractors working under a Confidentiality and Non-Disclosure Agreement for the sole purpose of performing the Services.

10.2 For purposes of this Agreement, information shall not be deemed Confidential Information if the receiving party can demonstrate by competent proof that such information: (a) is now, or hereinafter becomes, through no act or failure to act on the part of the receiving party, generally known and/or generally available in the public domain; (b) is known by the receiving party at the time of acquiring or receiving such Information; (c) is furnished to others by the disclosing party without restrictions on disclosure; (d) is independently developed by the receiving party without any breach of this Agreement; (e) or is obtained from a source other than the disclosing party without obligation of confidentiality and without

- any breach known to the receiving party by such source of any obligation of confidentiality.
- 10.3 The parties agree that they shall ensure that their respective personnel performing Services hereunder shall have executed an appropriate nondisclosure agreement and assignment of intellectual property to the employing party prior to performing any Services.
- 10.4 The covenants contained in this Section 10 shall be construed as agreements by both the Personnel furnished and any agent or assistant of the Personnel or the parties, independent of any other provisions of this Agreement and shall survive the term of this Agreement.
- 10.5 The parties acknowledge that certain information in this Agreement is confidential and proprietary. Notwithstanding the foregoing, the parties recognize that Customer is a regulated electric utility, and, as such, may be called upon to disclose information relative to its business to the PUCT and to other regulatory, administrative, judicial, reliability or governmental authority with jurisdiction over Customer, and to parties to proceedings before such bodies to which Customer is also a party. In addition, Customer may, in its sole discretion, deem it appropriate or advisable to voluntarily disclose such information (including, without limitation, this Agreement), in connection with discussions, filings, or proceedings at the PUCT, including in connection with obtaining review and approval of Customer's deployment plan for the IUN, or any portion thereof, filed pursuant to applicable rules of the PUCT, or to any other regulatory, administrative, judicial, reliability or governmental authority with jurisdiction over Customer. Therefore, the parties agree that a redacted version of this Agreement, including any SOW hereunder, is not Confidential

Information of Itron and may be disclosed, without notice to Itron, to the PUCT, or to any other regulatory, administrative, judicial, reliability or governmental authority with jurisdiction over Customer and Customer shall not release any Confidential Information of Itron in connection with proceedings before any such regulatory, administrative, judicial, reliability council or governmental authority except in accordance with the provisions of a Protective Order approved by such governmental authority or other similar assurances of confidentiality in this Agreement.

#### 11 DATA SECURITY

- 11.1 Itron agrees to use appropriate safeguards to prevent access to, use or disclosure of confidential, proprietary, financial, employee, or customer information and appropriately protect confidentiality, integrity and availability.
- 11.2 Itron ensures that any agent or subcontractor to whom Itron provides confidential, proprietary, financial, employee, or customer information agrees to implement reasonable and appropriate safeguards to protect the information.
- 11.3 Itron shall notify Customer in a timely manner in the event vulnerabilities are discovered in their product.
- 11.4 Itron must demonstrate compliance with Customer policies and standards in order to be considered for use.
- 11.5 Itron's engagement process shall include a Customer evaluation of security requirements.
- 11.6 Customer may request that additional security measures be implemented in addition to the measures stated in Customer's policies and standards, subject to the capability limits of the System and a joint assessment, understanding and agreement of any performance impacts and additional cost impacts.

12 **INFRINGEMENT, PATENTS &  
COPYRIGHT CLAIMS**

12.1 ITRON AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD CUSTOMER, ITS CORPORATE AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FREE AND HARMLESS FROM AND AGAINST, ANY AND ALL LIABILITIES, DAMAGES, LOSSES, CLAIMS, DEMANDS, JUDGMENTS, COSTS AND EXPENSES (INCLUDING THE REASONABLE COST OF DEFENSE THEREOF AND REASONABLE ATTORNEYS' FEES ACTUALLY INCURRED) INCURRED OR SUFFERED BY CUSTOMER, ITS CORPORATE AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, ARISING OUT OF THIRD PARTY CLAIMS OF INFRINGEMENTS OR ALLEGED INFRINGEMENTS OF ANY UNITED STATES PATENTS, PATENTS PENDING, COPYRIGHTED WORKS OR OTHER PROPRIETARY RIGHTS, PERTAINING TO THE EQUIPMENT AND LICENSED SOFTWARE, OR ANY PART OR COMBINATION THEREOF OR PROCESSES THEREIN, provided that:

- (a) Customer promptly notifies Itron in writing of the claim; and
- (b) Itron has sole control of the defense and all related settlement negotiations.



12.2 If, in any suit or proceeding, a temporary restraining order or preliminary injunction is granted, Itron shall make commercially reasonable efforts, to secure the suspension of such restraining order or temporary injunction.

12.3 If, in any suit or proceeding, the Equipment or Licensed Software, any part thereof, combination thereof, or process therein is held to constitute an infringement and its use is permanently enjoined, Itron shall, at once, make commercially reasonable effort to secure for Customer or itself a license, at no expense to Customer, authorizing the continued use of the Equipment or Licensed Software thereof or process therein.

12.4 If Itron is unable to secure such license within a reasonable time, Itron shall, at its own expense and without impairing the performance requirements of the Equipment or Licensed Software either modify the Equipment or Licensed Software therein to be noninfringing or re-perform same to be noninfringing. Any modification or re-performance of the Services, if not prohibited by law, shall be performed at a time and in a manner acceptable to Customer.

12.5 Itron has no liability for any claim based upon the combination, operation or use of any Equipment or Licensed Software supplied hereunder with equipment or software not approved by Itron, or based upon Customer's alteration of the Equipment or modification of any Licensed Software supplied hereunder.

13 **TERMINATION**

13.1 This Agreement shall become effective upon the Effective Date and shall terminate:

13.2 **Termination for Cause.** Both parties shall have the right to terminate the Agreement in whole or in part at any

- time by written Notice to the other party if such party (1) materially fails to perform any of the provisions of the Agreement; (2) makes any assignment for the benefit of creditors; or (3) fails to make progress so as to give the other party reason to believe such failure to make progress may endanger performance of the Agreement in accordance with its terms; and such party, in any of these circumstances, does not provide adequate assurances of performance within a period of thirty (30) days (or such longer period as the non-breaching party may authorize in writing) after receipt of said Notice from the other party specifying such failure.
- 13.2.1 If the Agreement is terminated as herein provided, Itron shall deliver to Customer, in the manner and to the extent directed by Customer, Equipment, Licensed Software and Services. Itron shall, as directed by Customer, protect and preserve such Equipment in the possession of Itron in which Customer has an interest until such time as said Equipment has been delivered to Customer and title to such Equipment has passed to Customer.
- 13.2.2 Payment for Equipment, Licensed Software and Services delivered to and accepted by Customer shall be made in accordance with the Agreement.
- 13.2.3 If, after Notice of Termination under the provisions of this Section 13, it is determined for any reason that Itron was not in default of the Agreement or if Customer elects to excuse such default, the rights and obligations of the Parties shall be the same as if Notice of Termination had been given pursuant to Section 13.3 TERMINATION FOR CONVENIENCE.
- 13.2.4 In the event of termination, those provisions of the Agreement that by their nature continue beyond Acceptance under the Agreement shall remain in full force and effect after such termination.
- 13.2.5 Upon termination of this Agreement for Customer's breach of a material term of the Software License Agreement:
- (a) Customer's rights to use the Licensed Software under Appendix D shall immediately cease; Customer shall delete the Licensed Software from all its computers and other software into which it has been merged; and Customer shall immediately deliver to Itron or destroy all copies of the Licensed Software and Related Documentation; however, Customer may, upon Itron's prior written consent, retain one (1) copy of the foregoing for archive purposes only; and
- (b) Customer shall, within one (1) month after the termination of this Agreement, certify in writing to Itron that, to the best of Customer's knowledge, all copies of the Licensed Software and Related Documentation have been returned or destroyed, except for any archive copy permitted under Section 13.2.5(a).
- 13.2.6 The rights and remedies of both parties provided in this Section 13 shall not be exclusive and are in addition to any other rights and remedies provided under the Agreement or at law or in equity.
- 13.3 **Termination for Convenience.** This Agreement may be terminated by Customer at any time, in whole or in part, at Customer's sole and absolute discretion. Any such termination shall be effected by written thirty (30) days Notice from Customer to Itron specifying the extent to which the Agreement is terminated, and the date upon which such termination becomes effective.
- 13.3.1 Upon receipt of such Notice of Termination, and except as otherwise directed by Customer, Itron shall:
- Stop Services on the date and to the extent specified in said Notice.
  - Terminate all orders and subcontracts to



the extent that they relate to the Agreement being terminated.

- Settle, with the approval or ratification of Customer and to the extent Customer may require, all outstanding liabilities and all claims arising out of Itron's termination of orders and subcontracts pursuant to Section 13.2.1 above. Customer's approval or ratification shall be final for purposes of this Section 13.
- Deliver to Customer, in the manner, at the times, and to the extent, if any, directed by Customer, Equipment produced in connection with the Agreement (not to exceed [REDACTED] of meter inventory).

13.3.2 After receipt of a Notice of Termination, Itron shall submit to Customer its statement of costs, which shall be exclusive of any special, indirect, incidental or consequential damages or expenses, in the form and with certification prescribed by Customer. Itron will use commercially reasonable efforts to mitigate such costs to Customer. Such proposal shall be submitted promptly, but in no event later than three (3) months from the effective date of termination, unless one or more extensions, in writing, are granted by Customer, pursuant to a written request made by Itron within such three-month period or authorized extension thereof. Upon failure of Itron to submit its statement within the time allowed, Customer may determine, on the basis of information available to it, the amount, if any, due to Itron by reason of the termination and shall thereupon pay to Itron the amount so determined which amount shall be full compensation as to any claims arising under the Agreement.

13.3.3 Any amounts payable, if any, by Customer to Itron shall be reasonable and based on actual incurred costs which are directly attributable to work performed in accordance with the Agreement. The responsibility of substantiating all costs and claims shall be borne by the Itron. Customer shall

have no obligation to compensate Itron for any costs or claim items unless substantiation and documentation is provided to Customer's reasonable satisfaction.

13.3.4 Subject to the provisions of Section 13.3.3 above, Itron and Customer may agree upon the whole or any part of the amount or amounts to be paid to Itron by reason of total or partial termination of Services pursuant to this Section 13.3, which amount or amounts shall include a reasonable allowance for profit on Services performed; provided, however that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Agreement Price as reduced by the amount of payments otherwise made and as further reduced by the Agreement Price of the Services not terminated. [REDACTED]

The Agreement shall be amended accordingly, and Itron shall be paid the agreed amount.

13.3.5 In arriving at the amount due Itron under Section 13.3 there shall be deducted from such amount(s) all un-liquidated advances or other payments made by Customer to the account of Itron, applicable to the terminated portion of the Agreement pursuant to the provisions of Section 13.3.2, and not otherwise recovered by or credited to Customer.

13.3.6 Itron shall, from the effective date of termination until the expiration of three (3) years after final payment under the Agreement, preserve and make available to Customer or its authorized

representative, at all reasonable times at the office of Itron but without direct charge to Customer or its authorized representative, all Itron's books, records, documents and other evidence regarding the settlement costs and expenses of Itron relating to termination for convenience hereunder, or, to the extent approved by Customer, photocopies, microcopies or other authentic reproductions thereof.

13.3.7 In the event of termination, those provisions of the Agreement that by their nature continue shall remain in full force and effect after such termination.

13.4 Regulatory Out

13.4.1 In addition to the right to terminate this Agreement for Termination for Cause (Section 13.2) and for Termination for Convenience (Section 13.3), Customer shall have the right to terminate this Agreement, in whole or in part, in its sole and absolute discretion, effective immediately upon written Notice to Itron, if Customer is unable to obtain the requisite regulatory approval for (a) the Project or any portion of the Project deemed material by Customer, including the automated metering, the timely recovery of Project costs, or Intelligent Grid deployment plans, or (b) any material provisions of this Agreement, or (c) if Customer receives, in its sole opinion, an unfavorable regulatory decision in connection with the project in any future rate proceeding or reconciliation. Unless specifically stated otherwise in the corresponding Notice, any termination under this Section 13.4 will be understood, and will be effective, to terminate this Agreement in its entirety. Upon obtaining regulatory and Customer's Board of Directors approval for the project, Customer agrees to provide Itron with written notice of the same, where upon Itron's receipt, this termination for Regulatory Out shall no longer be effective. In the event of a termination for Regulatory Out, Itron

shall be compensated in accordance with the provisions of Section 13.3.

14.1