

Joint Greenville Utilities Commission/Greenville City Council Special Meeting

Tuesday, May 26, 2015

5:30 p.m.

Greenville Utilities Board Room
401 South Greene Street

1. Call Meeting to Order – Mayor Thomas
– Chairman Minges
2. Approval of Agenda – Greenville Utilities Commission
Approval of Agenda – City Council
 - Public Comment Period – For issues that are germane to both Greenville Utilities Commission and the City Council

The Public Comment Period is a period reserved for comments by the public. Items that were or are scheduled to be the subject of public hearings conducted at the same meeting or another meeting during the same week shall not be discussed. A total of 30 minutes is allocated with each individual being allowed no more than 3 minutes. Individuals who registered with the City Clerk to speak will speak in the order registered until the allocated 30 minutes expires. If time remains after all persons who registered have spoken, individuals who did not register will have an opportunity to speak until the allocated 30 minutes expires.

3. For Greenville Utilities Commission to adopt a Resolution and for the City Council of the City of Greenville to adopt an Ordinance to approve the sale of the North Carolina Eastern Municipal Power Agency (NCEMPA) generating assets to Duke Energy Progress (DEP) by approving the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement between NCEMPA and DEP, and by approving and authorizing the execution of three (3) Contracts between NCEMPA and the City of Greenville; and NCEMPA and Greenville Utilities Commission as follows:
 - a. Debt Service Support Contract
 - b. Full Requirements Power Sales Agreement
 - c. Power Sales Agreements Termination Agreement
4. Greenville Utilities Commission - Adjournment
City Council –Adjournment



May 20, 2015

Greenville Utilities Commission Board of Commissioners
Greenville City Council Members

Ladies and Gentlemen:

In 1982, the North Carolina Eastern Municipal Power Agency (NCEMPA) was established to provide wholesale power to its 32 members. To that end, NCEMPA invested in five electric generation facilities to provide power to its members. The decision to invest in generation assets was the result of the continued double digit rate increases for wholesale power and reliability concerns during the 1970s.

At the time, four units at the Shearon Harris Nuclear power plant were planned to be constructed with a cost estimate of \$1.4 billion. Due to the Three Mile Island Nuclear accident and high interest rates, the construction faced increased regulations, unit cancellations, delays, and ultimately cost \$3.6 billion to build only one unit. The additional cost strapped the NCEMPA with \$2.2 billion in additional debt, which negatively impacted the competitiveness of member rates.

In recent years NCEMPA and Duke Energy Progress (DEP) began discussing DEP's interest in acquiring the NCEMPA's ownership in the generation plants in an effort to provide more competitive electric rates. Consequently, formal negotiations began in the fall of 2013.

Greenville Utilities Commission (GUC) assembled a team to perform due diligence and evaluate the long-term impact of the agreements to ensure the transaction was a good deal for its customers and the City of Greenville. The team was engaged in reviewing all contract terms and conditions and provided feedback to NCEMPA staff involved in the negotiations. Based on the team's in depth economic analysis, it was determined that it was beneficial to move forward with the asset sale.

NCEMPA and DEP entered into an Asset Purchase Agreement and Full Requirements Power Purchase Agreement, which were subsequently approved by the Federal Energy Regulatory Commission in December 2014. Legislation was then introduced in the NC General Assembly to allow NCEMPA to issue defeasance bonds, DEP to recover the cost of assets from NC retail customers, and authorize members to enter into a Debt Service Support Contract with NCEMPA. Governor McCrory signed the legislation into law on April 2, 2015, which began a 90-day window for all NCEMPA members to approve the agreements.

PO Box 1847
Greenville, NC
27835-1847
252 752-7166

www.guc.com

Your Local
Advantage

At the upcoming joint meeting the governing bodies will review and consider adoption of the attached Resolution and Ordinance, approving the sale of the NCEMPA generating assets to DEP; and approving and authorizing the execution of the following contracts between NCEMPA and both governing bodies:

- a. Debt Service Support Contract
- b. Full Requirements Power Sales Agreement
- c. Power Sales Agreements Termination Agreement

These documents are available upon request.

Finalizing the sale will reduce GUC's purchased power costs, enable GUC to offer more competitive rates to its customers, enhance economic development opportunities, and improve the quality of life for the region.

If you have questions concerning this information or would like to discuss this matter prior to the meeting, please call my office at 252-551-1500 to schedule an appointment. I will be happy to meet with you individually or by phone.



Anthony C. Cannon
General Manager/CEO
Greenville Utilities Commission

Attachments

A RESOLUTION OF THE GREENVILLE UTILITIES COMMISSION DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE GREENVILLE UTILITIES COMMISSION TO APPROVE THE ASSET PURCHASE AGREEMENT AND THE FULL REQUIREMENTS POWER PURCHASE AGREEMENT BETWEEN NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY AND DUKE ENERGY PROGRESS, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE DEBT SERVICE SUPPORT CONTRACT, THE FULL REQUIREMENTS POWER SALES AGREEMENT AND THE POWER SALES AGREEMENTS TERMINATION AGREEMENT BETWEEN THE CITY OF GREENVILLE AND THE GREENVILLE UTILITIES COMMISSION AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

WHEREAS, the Greenville Utilities Commission (the “Commission”), the City of Greenville (the “City” and, together with the Commission, the “Municipality”) and North Carolina Eastern Municipal Power Agency (“Power Agency”) entered into an Initial Project Power Sales Agreement dated as of July 30, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the “Project Power Sales Agreement”), pursuant to which Power Agency sells and the Municipality purchases and pays for the Municipality’s Participant’s Share (as defined in the Project Power Sales Agreement) of Project Output (as defined in the Project Power Sales Agreement); and

WHEREAS, the Municipality and Power Agency entered into a Supplemental Power Sales Agreement dated as of July 31, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the “Supplemental Power Sales Agreement”), pursuant to which Power Agency sells and the Municipality purchases and pays for All Requirements Bulk Power Supply (as defined in the Supplemental Power Sales Agreement), which consists of Project Output (as defined in the Supplemental Power Sales Agreement) and Supplemental Bulk Power Supply (as defined in the Supplemental Power Sales Agreement); and

WHEREAS, Power Agency and Duke Energy Progress, Inc. (“DEP”) have entered into an Asset Purchase Agreement (as supplemented and amended, the “APA”) dated as of September 5, 2014, pursuant to which Power Agency has agreed to sell and transfer to DEP, and DEP has agreed to purchase and pay for, the following undivided ownership interests of Power Agency in the following electric generating facilities: (i) 16.17% in Harris Unit No. 1, (ii) 18.33% in Brunswick Unit No. 1, (iii) 18.33% in Brunswick Unit No. 2, (iv) 16.17% in Mayo Unit No. 1, and (v) 12.94% in Roxboro Unit No. 4 and 3.77% in the common facilities that support Roxboro Unit No. 4 and the three (3) other coal-fired generation facilities located at the site of Roxboro Unit No. 4 (collectively, the “Joint Facilities”); and

WHEREAS, in connection with the sale and transfer of the Joint Facilities to DEP, Power Agency is required to redeem, purchase, otherwise retire or defease all of its bonds (the “Outstanding Bonds”) issued pursuant to, and outstanding under, Resolution R-2-82, adopted by Power Agency on April 1, 1982, as amended and supplemented thereafter; and

WHEREAS, such redemption, purchase, retirement or defeasance by Power Agency of the Outstanding Bonds will result in Power Agency being obligated to pay certain costs associated therewith (the “Defeasance Costs”); and

WHEREAS, portions of the Defeasance Costs will be funded from proceeds of the sale and transfer of the Joint Facilities to DEP and other funds available to Power Agency for such purpose, and Power Agency proposes to finance the balance of the Defeasance Costs by the issuance of revenue bonds (the “Bonds”) pursuant to a bond resolution substantially in the form and content of the proposed form of bond resolution dated April 24, 2015, previously delivered to the Municipality by Power Agency (the “Draft Bond Resolution”); and

WHEREAS, Power Agency proposes to enter into a Debt Service Support Contract dated as of April 24, 2015, with each of its members, including the Municipality, in order to support Power Agency's obligation to pay debt service on the Bonds, pursuant to which Debt Service Support Contracts each of its members, including the Municipality, is obligated to pay to Power Agency its Member's Share (as defined in the Debt Service Support Contract) of Monthly Support Costs (as defined in the Debt Service Support Contract) pursuant to the terms of the Debt Service Support Contracts; and

WHEREAS, the Bonds will be secured by, among other things, revenues derived by Power Agency pursuant to the Debt Service Support Contracts; and

WHEREAS, pursuant to Section 5 of the Debt Service Support Contract, the payment by the Municipality of its Monthly Support Costs is to be made to Power Agency unconditionally and without offset, counterclaim or other reduction, whether or not all or any portion of the electric power and energy contracted for under the member's Full Requirements Power Sales Agreement (described below) is delivered to the member or such Full Requirements Power Sales Agreement expires or is terminated in whole or in part; and

WHEREAS, the Municipality's Member's Share (as defined in the Debt Service Support Contract) is as set forth in Exhibit A to the Debt Service Support Contract; and

WHEREAS, Power Agency and DEP have entered into a Full Requirements Power Purchase Agreement (as supplemented and amended, the "Full Requirements Power Purchase Agreement") dated as of September 5, 2014, pursuant to which Power Agency will purchase from DEP and DEP will sell to Power Agency firm capacity and energy in the amounts required by Power Agency to reliably serve the current and future electrical loads of each of its members,

including the Municipality, throughout the term of the Full Requirements Power Purchase Agreement; and

WHEREAS, Power Agency proposes to enter into a Full Requirements Power Sales Agreement dated as of April 24, 2015, with each of its members, including the Municipality, in order to supply its members, including the Municipality, with its Full Requirements Bulk Power Supply (as defined in the Full Requirements Power Sales Agreement); and

WHEREAS, the Asset Purchase Agreement, among other things, requires the consent of the Municipality to, and approval of, the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement and each of the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement requires the termination of the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency proposes to enter into a Power Sales Agreements Termination Agreement dated as of April 24, 2015, with each of its members, including the Municipality, to terminate the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency's Consulting Engineer, to prepare an economic analysis of the projected financial impact of the transaction contemplated by the APA on Power Agency's wholesale power costs and proposed full requirements wholesale rates (the "Economic Analysis"); and

WHEREAS, Power Agency has caused to be furnished to this governing body a copy of each of the following: (i) the Asset Purchase Agreement, (ii) the Full Requirements Power Purchase Agreement, (iii) the Draft Bond Resolution, (iv) the Debt Service Support Contract, (v)

the Full Requirements Power Sales Agreement, (vi) the Power Sales Agreements Termination Agreement, and (vi) the Economic Analysis.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Commission:

1. After due consideration to the contents of each of the preambles set forth above and each of the documents referred to in such preambles, it is hereby found and determined that it is in the best interests of the Commission to consent to and approve the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement, and such other documents as may be necessary to effect or implement either of the foregoing, and the same are hereby consented to and approved, and to enter into the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement terminating the Project Power Sales Agreement and the Supplemental Power Sales Agreement effective upon APA Closing Date (as defined in the APA), which also is the effective date of the Full Requirements Power Sales Agreement.

2. The Commission hereby approves the form, terms and provisions of the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement between Power Agency and the Municipality, and the exhibits attached thereto, in the forms presented to the meeting at which this Resolution is adopted, with such changes therein as shall be approved by the officials of the Commission executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes. The Chair and the Secretary of the Commission are hereby authorized and directed to execute, acknowledge and deliver the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and the Power Sales Agreements Termination

Agreement in the name of and on behalf of the Commission and thereupon to cause the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreement Termination Agreement to be delivered to Power Agency.

3. The officers and officials of the Commission are hereby authorized and directed to execute such further documents and to take any and all further action as, upon the advice of the Attorney of the Commission, shall be deemed necessary or desirable in order to effectuate the execution and delivery of the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreements Termination Agreement and the transactions contemplated thereby and by the Asset Purchase Agreement and Full Requirements Power Purchase Agreement.

4. The Secretary of the Commission is hereby directed to file with the minutes of the meeting at which this Resolution is adopted each of the documents referred to in the last preamble of this Resolution.

5. This Resolution shall become effective from and after its adoption.

ADOPTED this _____ day of _____, 2015.

Chair

ATTEST:

Secretary

(Impress SEAL here)

ORDINANCE NO: 15 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, NORTH CAROLINA, DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE CITY OF GREENVILLE TO APPROVE THE ASSET PURCHASE AGREEMENT AND THE FULL REQUIREMENTS POWER PURCHASE AGREEMENT BETWEEN NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY AND DUKE ENERGY PROGRESS, INC., TO CONSENT TO THE TRANSACTIONS CONTEMPLATED THEREBY, AND TO APPROVE AND AUTHORIZE THE EXECUTION AND DELIVERY OF THE DEBT SERVICE SUPPORT CONTRACT, THE FULL REQUIREMENTS POWER SALES AGREEMENT AND THE POWER SALES AGREEMENTS TERMINATION AGREEMENT BETWEEN THE CITY OF GREENVILLE AND THE GREENVILLE UTILITIES COMMISSION AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

WHEREAS, the City of Greenville, North Carolina (the “City”), the Greenville Utilities Commission (the “Commission” and, together with the City, the “Municipality”) and North Carolina Eastern Municipal Power Agency (“Power Agency”) entered into an Initial Project Power Sales Agreement dated as of July 30, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the “Project Power Sales Agreement”), pursuant to which Power Agency sells and the Municipality purchases and pays for the Municipality’s Participant’s Share (as defined in the Project Power Sales Agreement) of Project Output (as defined in the Project Power Sales Agreement); and

WHEREAS, the Municipality and Power Agency entered into a Supplemental Power Sales Agreement dated as of July 31, 1981, as amended by an Amendment Agreement dated as of October 31, 1984 (the “Supplemental Power Sales Agreement”), pursuant to which Power Agency sells and the Municipality purchases and pays for All Requirements Bulk Power Supply (as defined in the Supplemental Power Sales Agreement), which consists of Project Output (as defined in the Supplemental Power Sales Agreement) and Supplemental Bulk Power Supply (as defined in the Supplemental Power Sales Agreement); and

WHEREAS, Power Agency and Duke Energy Progress, Inc. (“DEP”) have entered into an Asset Purchase Agreement (as supplemented and amended, the “APA”) dated as of September 5, 2014, pursuant to which Power Agency has agreed to sell and transfer to DEP, and DEP has agreed to purchase and pay for, the following undivided ownership interests of Power

Agency in the following electric generating facilities: (i) 16.17% in Harris Unit No. 1, (ii) 18.33% in Brunswick Unit No. 1, (iii) 18.33% in Brunswick Unit No. 2, (iv) 16.17% in Mayo Unit No. 1, and (v) 12.94% in Roxboro Unit No. 4 and 3.77% in the common facilities that support Roxboro Unit No. 4 and the three (3) other coal-fired generation facilities located at the site of Roxboro Unit No. 4 (collectively, the “Joint Facilities”); and

WHEREAS, in connection with the sale and transfer of the Joint Facilities to DEP, Power Agency is required to redeem, purchase, otherwise retire or defease all of its bonds (the “Outstanding Bonds”) issued pursuant to, and outstanding under, Resolution R-2-82, adopted by Power Agency on April 1, 1982, as amended and supplemented thereafter; and

WHEREAS, such redemption, purchase, retirement or defeasance by Power Agency of the Outstanding Bonds will result in Power Agency being obligated to pay certain costs associated therewith (the “Defeasance Costs”); and

WHEREAS, portions of the Defeasance Costs will be funded from proceeds of the sale and transfer of the Joint Facilities to DEP and other funds available to Power Agency for such purpose, and Power Agency proposes to finance the balance of the Defeasance Costs by the issuance of revenue bonds (the “Bonds”) pursuant to a bond resolution substantially in the form and content of the proposed form of bond resolution dated April 24, 2015, previously delivered to the Municipality by Power Agency (the “Draft Bond Resolution”); and

WHEREAS, Power Agency proposes to enter into a Debt Service Support Contract dated as of April 24, 2015, with each of its members, including the Municipality, in order to support Power Agency’s obligation to pay debt service on the Bonds, pursuant to which Debt Service Support Contracts each of its members, including the Municipality, is obligated to pay to Power Agency its Member’s Share (as defined in the Debt Service Support Contract) of Monthly

Support Costs (as defined in the Debt Service Support Contract) pursuant to the terms of the Debt Service Support Contracts; and

WHEREAS, the Bonds will be secured by, among other things, revenues derived by Power Agency pursuant to the Debt Service Support Contracts; and

WHEREAS, pursuant to Section 5 of the Debt Service Support Contract, the payment by the Municipality of its Monthly Support Costs is to be made to Power Agency unconditionally and without offset, counterclaim or other reduction, whether or not all or any portion of the electric power and energy contracted for under the member's Full Requirements Power Sales Agreement (described below) is delivered to the member or such Full Requirements Power Sales Agreement expires or is terminated in whole or in part; and

WHEREAS, the Municipality's Member's Share (as defined in the Debt Service Support Contract) is as set forth in Exhibit A to the Debt Service Support Contract; and

WHEREAS, Power Agency and DEP have entered into a Full Requirements Power Purchase Agreement (as supplemented and amended, the "Full Requirements Power Purchase Agreement") dated as of September 5, 2014, pursuant to which Power Agency will purchase from DEP and DEP will sell to Power Agency firm capacity and energy in the amounts required by Power Agency to reliably serve the current and future electrical loads of each of its members, including the Municipality, throughout the term of the Full Requirements Power Purchase Agreement; and

WHEREAS, Power Agency proposes to enter into a Full Requirements Power Sales Agreement dated as of April 24, 2015, with each of its members, including the Municipality, in order to supply its members, including the Municipality, with its Full Requirements Bulk Power Supply (as defined in the Full Requirements Power Sales Agreement); and

WHEREAS, the Asset Purchase Agreement, among other things, requires the consent of the Municipality to, and approval of, the consummation of the transactions contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement and each of the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement requires the termination of the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency proposes to enter into a Power Sales Agreements Termination Agreement dated as of April 24, 2015, with each of its members, including the Municipality, to terminate the Project Power Sales Agreement and the Supplemental Power Sales Agreement; and

WHEREAS, Power Agency has caused GDS Associates, Inc., Power Agency's Consulting Engineer, to prepare an economic analysis of the projected financial impact of the transaction contemplated by the APA on Power Agency's wholesale power costs and proposed full requirements wholesale rates (the "Economic Analysis"); and

WHEREAS, Power Agency has caused to be furnished to this governing body a copy of each of the following: (i) the Asset Purchase Agreement, (ii) the Full Requirements Power Purchase Agreement, (iii) the Draft Bond Resolution, (iv) the Debt Service Support Contract, (v) the Full Requirements Power Sales Agreement, (vi) the Power Sales Agreements Termination Agreement, and (vii) the Economic Analysis.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Greenville, North Carolina:

1. After due consideration to the contents of each of the preambles set forth above and each of the documents referred to in such preambles, it is hereby found and determined that it is in the best interests of the City to consent to and approve the consummation of the transactions

contemplated by the Asset Purchase Agreement and the Full Requirements Power Purchase Agreement, and such other documents as may be necessary to effect or implement either of the foregoing, and the same are hereby consented to and approved, and to enter into the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement terminating the Project Power Sales Agreement and the Supplemental Power Sales Agreement effective upon APA Closing Date (as defined in the APA), which also is the effective date of the Full Requirements Power Sales Agreement.

2. The City hereby approves the form, terms and provisions of the Debt Service Support Contract, the Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement between Power Agency and the Municipality, and the exhibits attached thereto, in the forms presented to the meeting at which this Ordinance is adopted, with such changes therein as shall be approved by the officials of the City executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes. The Mayor and the Clerk of the City are hereby authorized and directed to execute, acknowledge and deliver the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and the Power Sales Agreements Termination Agreement in the name of and on behalf of the City and thereupon to cause the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreement Termination Agreement to be delivered to Power Agency.

3. The officers and officials of the City are hereby authorized and directed to execute such further documents and to take any and all further action as, upon the advice of the Attorney of the City, shall be deemed necessary or desirable in order to effectuate the execution and delivery of the aforesaid Debt Service Support Contract, Full Requirements Power Sales Agreement and Power Sales Agreements Termination Agreement and the transactions

contemplated thereby and by the Asset Purchase Agreement and Full Requirements Power Purchase Agreement.

5. The Clerk of the City is hereby directed to file with the minutes of the meeting at which this Ordinance is adopted each of the documents referred to in the last preamble of this Ordinance.

6. This Ordinance shall become effective from and after its adoption.

ADOPTED this 26th day of May, 2015.

Allen M. Thomas, Mayor

ATTEST:

Carol L. Barwick, City Clerk