

**MILLERSBURG BOROUGH
DAUPHIN COUNTY, PENNSYLVANIA**

RESOLUTION NO. 15-03

**A RESOLUTION AUTHORIZING THE PENNSYLVANIA PUBLIC ENTITY ENERGY
CONSORTIUM TO ACT BY ITSELF OR BY ITS ENERGY ADVISORS TO
PURCHASE ELECTRICITY ON BEHALF OF MILLERSBURG BOROUGH
AND TO PROVIDE RELATED SERVICES**

TERM

This Agreement shall be in full force and effect from the day first approved until June 30, 2015, subject then and each year thereafter to automatic renewal for a one (1) year term at its expiration date, unless the Public Entity, by written notice to PPEEC no later than sixty (60) days prior to renewal, determines not to renew this Agreement.

SERVICES PERFORMED

This service is to be performed by PPEEC under this Agreement and shall cover and encompass all the electricity requirements of each of the Public Entities Facilities designated by the Public Entity by inclusion in the Exhibit A, attached hereto, endorsed by the Public Entity, and thereby made a part of this Agreement. Exhibit A also provides the estimated electricity requirements for each of the identified Facilities.

The PPEEC shall deliver the following services to the Public Entity where appropriate:

1. Analyze and evaluate electricity supply and transportation strategies;
2. Forecast estimated hourly, daily, and/or monthly electricity requirements of the Public Entity as needed;
3. Purchase or arrange to be purchased electricity and the transportation thereof for the facilities, either separately for the Public Entity or in aggregation with such purchases for other participating members in the PPEEC, at prices and on terms and conditions which are competitive with the lowest prices and most favorable conditions reasonably available, including if and as required, in compliance with the requirements of the Commonwealth of Pennsylvania Statutory Law;
4. Negotiate and execute electricity purchase, transportation, and other similar electricity transactions;

5. Perform nominations and/or scheduling of electricity purchased and transportation services for the Public Entity;
6. Monitor electricity account imbalances with suppliers and transporters;
7. Provide for the delivery of electricity to the Public Entity's facilities;
8. Generate electricity purchase and transportation invoices showing for each facility, the meter cycle, the monthly usage, electricity procurement charge, utility transportation charges, and any other utility charges. Must also show the status of the account identifying the prior account balance, any payments since the previous invoice, current charges plus any applicable late payment charges and provide general electricity management and consultation services;
9. The Public Entity shall notify PPEEC of changes in the Public Entity's Facilities or operations which are reasonably expected to increase or decrease the consumption of electricity at a facility more than twenty-five (25%) percent as compared to its historical levels.

TITLE

All purchase, transportation, and other electricity service contracts shall be in the name of the Public Entity or PPEEC.

RELATIONSHIP

This Public Entity authorizes PPEEC to act as its Agent for both the Consortium and the provision of such services, and thus has hereby constituted and appointed an authorized Officer and/or Agent of PPEEC to act on its behalf as its lawful Agent for the implementation of the Consortium Programs and provision of the services. The authorization shall include the right to do and perform all acts, with full power to execute all documents requisite and necessary to be done in all matters relating to the provision of services, including the purchase, sale, and transportation of electricity. Therefore, the Public Entity authorizes PPEEC to take actions appropriate to establish and implement the Energy Program and the provisions of its services. The Public Entity's Authorized Administrative Representative who sits on the PPEEC Board of Directors shall have knowledge of all actions that may have a major financial impact on the Public Entity.

ENERGY ADVISORS

The Public Entity acknowledges and agrees that PPEEC may provide the services by itself and its employees, and/or by Agents or Contractors, i.e., "Energy Advisors", that PPEEC, based upon the participation and recommendations of interested members involved in the selection process, has retained the services of Schneider Electric, Inc., which will structure and administer the program, including the services, and will recommend and execute competitive bid

processes and timing, and purchasing and pricing strategies, and that PPEEC may retain additional alternative energy advisors if necessary.

COMPENSATION FOR SERVICES; OTHER CHARGES

1. Subject to the terms and conditions of this Agreement, (a) PPEEC agrees to provide for sale and delivery, and the Public Entity agrees, on an exclusive basis, to receive and to pay PPEEC for the quantity of the electricity required to service the Public Entity's Facilities for the duration of the Electricity Supply Agreement, and (b) PPEEC agrees to provide and the Public Entity agrees to receive and pay for the other Services which are the subject of this Agreement.

2. The periodic and/or transactional costs of the Purchase Program shall be determined annually by the PPEEC executive committee. The initial PPEEC fees shall be \$0.0025/kWh depending on the inclusion of purchase and pricing commission fees in the price of the electricity, such fees to be charged to the Public Entity beginning with the first electricity flow month.

3. PPEEC electricity charges to the Public Entity will include the electricity per kWh rate (including any applicable transportation charges and ancillary charges) multiplied by the Public Entity's electricity usage.

4. Upon the request of PPEEC, such participating Public Entity to this resolution shall deposit with the PPEEC the lump sum payment of the approximate amount of the two highest utility bills applicable for electricity services to the said Public Entity.

BILLING AND PAYMENT

1. On a monthly basis, unless otherwise approved by the Public Entity, PPEEC shall provide the Public Entity with a consolidated invoice for the Public Entity's Facilities receiving Services under this Agreement. Invoices will be directed to, and payment will be made directly by the Public Entity to PPEEC, pursuant to the Establishment of an Escrow Account Section of this Agreement. Payment is due 30 days from the date of invoice postmark. Late payment charges may be imposed by PPEEC at a rate equal to one and one-half percent (1.5%) per month on all outstanding balances. Notwithstanding the existence of any late payment penalty, PPEEC will give the Public Entity ten (10) days' notice with which to cure any late payment, the failure by the Public Entity to pay any late PPEEC monthly invoice, after the Public Entity has received the ten (10) day notice, shall provide PPEEC the unilateral right to terminate this Agreement.

2. The Public Entity acknowledges and agrees that PPEEC, from time to time, may not receive timely information from the Utility to invoice the Public Entity on its actual usage for any month, and that consequently, PPEEC may invoice the Public Entity on an estimate of the Public Entity's last two months actual electricity usage. The Public Entity agrees to pay PPEEC the amount on the invoice as presented, and both parties shall make any and all adjustments as

soon as practicable thereafter. Such payment shall not be deemed to be a waiver by the Public Entity of its right to recoup any overpayment, or by PPEEC of its right to recoup any underpayment.

3. In the event the Public Entity fails to make timely payment in accordance with the terms of this Agreement, PPEEC shall have, in addition to any other right and remedy it may have hereunder, the rights to declare the Public Entity to be in default and to terminate this Agreement or to suspend further delivery of electricity and other Services until such amount is paid. PPEEC is further authorized to bill the Public Entity for reasonable charges associated with demands for payment on late accounts as well as reasonable charges associated with suspension and resumption of Services.

4. If the Public Entity chooses to appeal/object to any bill/invoice received from PPEEC the Public Entity shall first pay such billed/invoiced amount and attach a detailed written correspondence highlighting the reasoning and any evidence to support the Public Entity's objection/appeal. All disputes shall be governed by the Court of Common Pleas of Blair County.

ESTABLISHMENT OF ESCROW ACCOUNT

1. PPEEC shall establish an escrow account for the purposes of receiving the payments for Services from Participating Members and making payments to the utilities, the electricity suppliers, Energy Advisors and other payees as authorized by the PPEEC Board of Directors or its Executive Committee.

2. The PPEEC Board of Directors or Executive Committee shall approve the instructions for this escrow account, including the list of the authorized recipients of payments from the account, and the officials of PPEEC management who may authorize the release of funds from this escrow account.

3. Only so approved PPEEC management officials may authorize release of funds from the escrow account, and such release shall only be to those payees identified in the escrow instructions.

MODIFICATION, TRANSFER, OR CANCELLATION OF SERVICES

1. Any change in law, rule or regulation, or utility practice which prohibits or substantially prevents PPEEC or the Public Entity from carrying out the terms of this Resolution shall excuse both parties from their obligations under the Resolution, except for the obligation of the Public Entity to make payments due for electricity and other services rendered.

2. The Public Entity acknowledges that if PPEEC's contract with the third-party electricity supplier(s) terminates for any reason, the Public Entity will receive electricity service for its Facilities directly from the Utility commencing on the first

day of the Public Entity's next billing cycle pursuant to the terms and conditions of the Utility's tariff rates applicable to the Public Entity's facilities and accounts.

3. Subject to the initial term limitations, the Public Entity may withdraw or cancel this Agreement, only in a manner which provides for the Public Entity to issue payment for electricity which they have ordered and/or other services rendered, which shall release PPEEC from all responsibility and liability related to its services and other obligations under this Agreement in correlation with the supply contract terms and conditions.
4. Actions by the utilities and/or the Public Utility Commission (PUC) which are determined to be in conflict with its sound business practices, or which impose unnecessary risks on either party to this Resolution, or which substantially prevent PPEEC from performing services under the Resolution, may result in the cancellation of the Resolution by PPEEC. PPEEC shall give the Public Entity 90 days written notice prior to such cancellation and both parties shall utilize their best efforts to minimize the negative effects on PPEEC and the Public Entity of such cancellation.

This Resolution shall be in full force and effect, from and after its passage and publication, as provided by law.

APPROVED this 11th day of February, 2015.

BOROUGH OF MILLERSBURG

By: Christy C. Datz
President of Council

ATTEST:

By: Ann Bowman Jackson
Borough Secretary

SEAL

Exhibit A

Facilities

Millersburg Borough, 101 West St. - PPL account #04900-85008

Millersburg Borough Street Lights – PPL account #25801-20003

Millersburg Borough Seal Park Street Lights – PPL account #26001-20001

Millersburg Borough North St. Seal Park – PPL account #34120-75009

Millersburg Borough Pine Street Storage Bldg. – PPL account #87850-86006

Millersburg Borough MYO Park – PPL account #24090-78004

Millersburg Borough Pine and Walnut Streets – PPL account #93650-86012

Millersburg Borough Market Square Park E – PPL account #99100-85003

CERTIFICATE

I certify that the foregoing is a true and complete copy of a Resolution adopted by the Millersburg Borough Council, Dauphin County, Commonwealth of Pennsylvania, at a meeting held on the 11th day of February, 2015 and that the meeting was conducted and Public Notice of the meeting was given pursuant to and in full compliance with the Pennsylvania Sunshine Act, and that the Minutes of the meeting were kept and have been made available as required by the Act.

I further certify that a vote for the adoption of the Resolution was taken with the approval being made by 5 votes "yes", and 0 votes "no".

APPROVED this 11th day of February, 2015.

ATTEST:

By: Ann Bowman Jackson
Borough Council Secretary