

COUNTY COUNCIL OF CECIL COUNTY, MARYLAND  
LEGISLATIVE SESSION DAY 13-09

RESOLUTION NO. 41-2013

**Title of Resolution:** Agreement, First Amendment to Agreement for Payment in Lieu of Taxes ("PILOT") with Old Dominion Electric Cooperative ("ODEC") and Essential Power Rock Springs, LLC

**Synopsis:** A Resolution to approve an amendment to that certain PILOT agreement dated April 2, 2002 by and between Cecil County, Maryland, a body corporate and politic (formerly the Board of County Commissioners of Cecil County), and Old Dominion Electric Cooperative and Essential Power Rock Springs, LLC (successors in interest to Rock Springs Generation, LLC and Outwater Funding Limited Partnership, the original signatories), extending the term of the PILOT and modifying the payment schedule and payment amounts in the event that ODEC proceeds with construction of a combined-cycle project at the facility (the "Expansion").

**Introduced by:** Council President on behalf of the County Executive

**Introduced and ordered posted on:** May 7, 2013

**Scheduled for consideration:** May 21, 2013

Notice and title of Resolution having been posted by May 10, 2014 at the County Administration Building, 200 Chesapeake Blvd., Elkton and consideration by the Council having been scheduled on May 21, 2013.

By: James Massey  
Council Manager

Agreement - First Amendment to Agreement for PILOT  
with Old Dominion Electric Cooperative ("ODEC") and Essential Power Rock Springs, LLC

1           **WHEREAS**, Maryland Code Annotated, §7-512(a)(1) of the Tax Property Article provides that the  
2 governing body of Cecil County may enter into an agreement with the owner of a facility for the  
3 generation of electricity that locates in Cecil County for a negotiated payment by the owner in lieu of  
4 taxes on the facility; and,

5           **WHEREAS**, Maryland Code Annotated, §7-512(a)(2) of the Tax Property Article further provides  
6 that an agreement for a negotiated payment in lieu of taxes under this section shall provide that, for the  
7 term specified in the agreement, (i) the owner shall pay to Cecil County a specified amount each year in  
8 lieu of the payment of Cecil County property tax and, (ii) all or a specified part of the real and personal  
9 property at the facility shall be exempt from Cecil County property tax for the term of the agreement;  
10 and,

11           **WHEREAS**, Maryland Code Annotated, §7-512(b) of the Tax Property Article provides that, as  
12 specified in the agreement for a negotiated payment in lieu of taxes under this section, for the term  
13 specified in the agreement, the real and personal property at a facility for the generation of electricity  
14 that locates in Cecil County is exempt from Cecil County property tax; and,

15           **WHEREAS**, on April 2, 2002, Cecil County, Maryland, a body corporate and politic (formerly the  
16 Board of County Commissioners of Cecil County)(hereinafter, the "County"), entered into an agreement  
17 for negotiated payment in lieu of taxes for an electricity facility in Cecil County (hereinafter, the "PILOT")  
18 with Rock Springs Generation, LLC (hereinafter, "Rock Springs") and its partner, Outwater Funding,  
19 Limited Partnership (hereinafter, "Outwater"); and,

20           **WHEREAS**, Old Dominion Electric Cooperative (hereinafter, "ODEC"), successor in interest to Rock  
21 Springs, Essential Power Rock Springs, LLC (hereinafter, "EP"), successor in interest to Outwater,  
22 (collectively, "Owner"), and the County, now desire to amend the PILOT to extend the PILOT term and  
23 modify the payment schedule and payment amounts in the event that ODEC proceeds with construction  
24 of a combined-cycle project at the facility (the "Expansion"), as more fully set forth in the First  
25 Amendment to Agreement for Payment in Lieu of Taxes (the "Amendment"); and,

26           **WHEREAS**, pursuant to the Amendment, the term will be extended to June 30, 2035; and,

27           **WHEREAS**, the payment schedule will be amended such that all real and personal property at  
28 the facility shall be exempt from Cecil County property tax for the term of the Amendment

Agreement - First Amendment to Agreement for PILOT  
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29 and, further, that in lieu of payment Cecil County property tax, Owner shall pay the following  
30 amounts to County:

<u>Tax Year</u>	<u>Pilot Amount</u>
7/1/2002 to 6/30/2003	\$ 2,000,000.00
7/1/2003 to 6/30/2004	\$ 1,300,000.00
7/1/2004 to 6/30/2005	\$ 1,300,000.00
7/1/2005 to 6/30/2006	\$ 1,300,000.00
7/1/2006 to 6/30/2007	\$ 1,300,000.00
7/1/2007 to 6/30/2008	\$ 1,500,000.00
7/1/2008 to 6/30/2009	\$ 1,500,000.00
7/1/2009 to 6/30/2010	\$ 1,500,000.00
7/1/2010 to 6/30/2011	\$ 1,500,000.00
7/1/2011 to 6/30/2012	\$ 1,500,000.00
7/1/2012 to 6/30/2013	\$ 2,000,000.00
7/1/2013 to 6/30/2014	\$ 2,500,000.00
7/1/2014 to 6/30/2015	\$ 3,000,000.00
7/1/2015 to 6/30/2016	\$ 3,635,000.00
7/1/2016 to 6/30/2017	\$ 3,635,000.00

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7/1/2017 to 6/30/2018	\$ 3,635,000.00
7/1/2018 to 6/30/2019	\$ 3,635,000.00
7/1/2019 to 6/30/2020	\$ 3,635,000.00
7/1/2020 to 6/30/2021	\$ 3,635,000.00
7/1/2021 to 6/30/2022	\$ 3,635,000.00
7/1/2022 to 6/30/2023	\$ 3,635,000.00
7/1/2023 to 6/30/2024	\$ 3,635,000.00
7/1/2024 to 6/30/2025	\$ 3,635,000.00
7/1/2025 to 6/30/2026	\$ 3,635,000.00
7/1/2026 to 6/30/2027	\$ 3,635,000.00
7/1/2027 to 6/30/2028	\$ 3,635,000.00
7/1/2028 to 6/30/2029	\$ 3,635,000.00
7/1/2029 to 6/30/2030	\$ 3,635,000.00
7/1/2030 to 6/30/2031	\$ 3,635,000.00
7/1/2031 to 6/30/2032	\$ 3,635,000.00
7/1/2032 to 6/30/2033	\$ 3,635,000.00
7/1/2033 to 6/30/2034	\$ 3,635,000.00

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7/1/2034 to  
6/30/2035

\$ 3,635,000.00

Total

\$94,900,000.00

31           **WHEREAS**, the Amendment shall commence and become effective July 1, 2013 and shall  
32 continue for a term of twenty-two (22) fiscal years, terminating on June 30, 2035; and,

33           **WHEREAS**, any Cecil County property tax due and payable by Owner prior to July 1, 2002 or  
34 after June 30, 2035, regardless of when assessed or billed, shall remain due and payable as assessed  
35 and billed; it being the intention to excuse the payment of taxes in return for a payment in lieu of  
36 taxes only for those tax years listed previously herein; and,

37           **WHEREAS**, Owner shall have the option to cancel the Amendment at any time prior to the  
38 commencement of commercial operation of the Expansion, with such cancellation to be effected by  
39 delivery of written notice to the County, at which time the Amendment shall be void and of no  
40 further effect; provided, however, that cancellation of the Amendment will have no effect upon the  
41 remaining rights and duties of the respective parties, which upon such cancellation will continue in  
42 full force and effect as set forth pursuant to the PILOT.

43  
44           **NOW, THEREFORE, BE IT HEREBY RESOLVED** that the Amendment be, and it is hereby approved  
45 and,

46           **BE IT FURTHER RESOLVED**, that the County Executive be, and she is hereby authorized, to execute  
47 the Amendment for and on behalf of the County, upon the terms and conditions set forth herein.

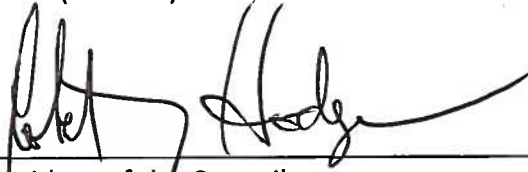
48  
49 INTRODUCED: \_\_\_\_\_ May 7, 2013 \_\_\_\_\_

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51 ADOPTED:           MAY 21, 2013          

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Agreement - First Amendment to Agreement for PILOT  
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\_\_\_\_\_  
President of the Council

ATTEST:

  
\_\_\_\_\_  
Council Manager

By the Executive:

  
\_\_\_\_\_  
County Executive

5/22/13  
\_\_\_\_\_  
Date

**FIRST AMENDMENT TO  
AGREEMENT FOR PAYMENT IN LIEU OF TAXES**

THIS FIRST AMENDMENT (the "Amendment") made effective this \_\_\_ day of May, 2013 by and between OLD DOMINION ELECTRIC COOPERATIVE, as co-owner and successor by merger to Rock Springs Generation, LLC, a Virginia Limited Liability Company, ESSENTIAL POWER ROCK SPRINGS, LLC, as co-owner and successor in interest to Outwater Funding, Limited Partnership, A Delaware Limited Partnership, together with their successors and assigns hereinafter collectively referred to as "Owner," party of the first part, and CECIL COUNTY, MARYLAND, a body corporate and politic (formerly the Board of County Commissioners of Cecil County), hereinafter referred to as "County," party of the second part. Capitalized terms not otherwise defined herein shall be defined as set forth in the Agreement.

WHEREAS, Rock Springs Generation, LLC and Outwater Funding, Limited Partnership, the predecessors of Owner, and The Board of County Commissioners of Cecil County, the predecessor of County, entered into an Agreement for Payment in Lieu of Taxes made effective as of the second day of April, 2002 (the "Agreement"), and

WHEREAS, the parties now desire to amend the Agreement to extend its term and modify the payment schedule and payment amounts in the event that Owner proceeds with construction of a combined-cycle project at the Facility (the "Expansion"),

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Section One of the Agreement is hereby modified to provide as follows:

*SECTION ONE*

*PILOT*

*Subject to the terms and conditions of this Agreement, County hereby agrees that all real and personal property at the Facility shall be exempt from County tax for the term of this Agreement. In lieu of payment of real and personal property taxes assessed against the Facility to County for the term of this Agreement, Owner shall pay the following amounts to County:*

<u><i>Tax Year</i></u>	<u><i>Pilot Amount</i></u>
<i>7/1/2002 to 6/30/2003</i>	<i>\$ 2,000,000.00</i>
<i>7/1/2003 to 6/30/2004</i>	<i>\$ 1,300,000.00</i>
<i>7/1/2004 to 6/30/2005</i>	<i>\$ 1,300,000.00</i>
<i>7/1/2005 to 6/30/2006</i>	<i>\$ 1,300,000.00</i>
<i>7/1/2006 to 6/30/2007</i>	<i>\$ 1,300,000.00</i>
<i>7/1/2007 to 6/30/2008</i>	<i>\$ 1,500,000.00</i>
<i>7/1/2008 to 6/30/2009</i>	<i>\$ 1,500,000.00</i>
<i>7/1/2009 to 6/30/2010</i>	<i>\$ 1,500,000.00</i>
<i>7/1/2010 to 6/30/2011</i>	<i>\$ 1,500,000.00</i>
<i>7/1/2011 to 6/30/2012</i>	<i>\$ 1,500,000.00</i>



<i>7/1/2012 to 6/30/2013</i>	<i>\$ 2,000,000.00</i>
<i>7/1/2013 to 6/30/2014</i>	<i>\$ 2,500,000.00</i>
<i>7/1/2014 to 6/30/2015</i>	<i>\$ 3,000,000.00</i>
<i>7/1/2015 to 6/30/2016</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2016 to 6/30/2017</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2017 to 6/30/2018</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2018 to 6/30/2019</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2019 to 6/30/2020</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2020 to 6/30/2021</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2021 to 6/30/2022</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2022 to 6/30/2023</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2023 to 6/30/2024</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2024 to 6/30/2025</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2025 to 6/30/2026</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2026 to 6/30/2027</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2027 to 6/30/2028</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2028 to 6/30/2029</i>	<i>\$ 3,635,000.00</i>
<i>7/1/2029 to 6/30/2030</i>	<i>\$ 3,635,000.00</i>

7/1/2030 to 6/30/2031	\$ 3,635,000.00
7/1/2031 to 6/30/2032	\$ 3,635,000.00
7/1/2032 to 6/30/2033	\$ 3,635,000.00
7/1/2033 to 6/30/2034	\$ 3,635,000.00
7/1/2034 to 6/30/2035	\$ 3,635,000.00
<i>Total</i>	<hr/> \$94,900,000.00

*The payments due hereunder shall be a lien against the real or personal property of Owner located on or comprising the Facility to the same extent as if said payments due represented property taxes payable.*

2. Section Two of the Agreement is hereby modified to read as follows:

*SECTION TWO*

*TERM*

*This Agreement shall commence and become effective July 1, 2002 and shall continue for a term of thirty-three (33) fiscal years, terminating on June 30, 2035. Any property taxes due and payable by Owner prior to July 1, 2002 or after June 30, 2035, regardless of when assessed or billed, shall remain due and payable as assessed and billed; it being the intention to excuse the payment of taxes in return for a payment in lieu of taxes only for those tax years listed previously herein.*

3. Section Eight of the Agreement is hereby modified to read as follows:

*SECTION EIGHT*

*ADDRESSES OF PARTIES*

*Notification to the parties shall be sent to the following addresses:*

*Old Dominion Electric Cooperative  
Innsbrook Corporate Center  
4201 Dominion Boulevard  
Glen Allen, Virginia 23060  
Attention: Senior Vice President & Chief Operating Officer  
Phone: (804) 747-3742 (fax)*

*Essential Power Rock Springs, LLC  
c/o Essential Power, LLC  
150 College Road West, Suite 300  
Princeton, NJ 08540  
Attention: Director, Commercial Services  
Phone: (609) 917-3700*

*Cecil County, Maryland  
County Administrative Building  
200 Chesapeake Boulevard, Suite 2100  
Elkton, Maryland 21921  
Attention: Director of Administration  
Phone: (410) 996-5202*

4. All other terms of the Agreement remain in full force and effect.

5. Owner shall have the option to cancel this Amendment at any time prior to the commencement of commercial operation of the Expansion. Cancellation shall be effected by delivery of written notice to the County, at which time this Amendment shall be void and of no further effect. Cancellation of this Amendment will have no effect upon the remaining rights and

duties of the respective parties, which upon such cancellation will continue in full force and effect as set forth pursuant to the Agreement.

IN WITNESS WHEREOF, this Amendment has been executed by all parties effective the first date above written.

Attest:

COUNTY COUNCIL OF CECIL COUNTY

\_\_\_\_\_  
Alfred C. Wein, Jr.  
Director of Administration

By: \_\_\_\_\_  
Tari Moore  
County Executive

Attest:

OLD DOMINION ELECTRIC COOPERATIVE

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

By: \_\_\_\_\_  
Jackson E. Reasor, Jr.  
President

Attest:

ESSENTIAL POWER ROCK SPRINGS, LLC

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

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

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