

## **PAYMENT IN LIEU OF TAX AGREEMENT**

PAYMENT IN LIEU OF TAX AGREEMENT (“PILOT Agreement”) by and between the Town of Plymouth, a municipal corporation and political subdivision of the Commonwealth of Massachusetts, with offices at 11 Lincoln Street, Plymouth, Massachusetts 02360 (“Town”) and Entergy Nuclear Generation Company, a Massachusetts corporation with its principal place of business at the Pilgrim Nuclear Generating Station, Rocky Hill Road, Plymouth, MA 02360 (“Entergy”), each individually a “Party” and collectively, the “Parties.”

### **WITNESSETH:**

WHEREAS, Entergy is the owner of the Pilgrim Nuclear Generating Station located in the Town; and

WHEREAS, Entergy and the Town desire to establish a fair and reasonable process by which to assess real and personal property taxes based on the fair cash value of Entergy's property identified in Exhibit 1 (hereinafter, “the Plant”); and

WHEREAS, Entergy and the Town acknowledge that the wholesale energy market in the ISO New England, Inc. (“ISO-NE”) region is subject to great uncertainty; and

WHEREAS, Entergy and the Town agree that having an accurate projection of their respective property tax expenses and revenues with respect to the Plant is in their mutual best interests; and

WHEREAS, Entergy and the Town desire to obtain the benefits of a settled relationship during the term of this PILOT Agreement; and

WHEREAS, Entergy and the Town acknowledge that a comprehensive PILOT Agreement fixing and maintaining mutually acceptable payments based on reasonable and accurate fair cash values for the Plant for the Fiscal Years 2014 through 2016 is appropriate and serves their respective interests; and

WHEREAS, Entergy and the Town have reached this agreement as a result of good faith negotiations so that Entergy's payments to the Town each year shall be the equivalent of the property tax obligations which would otherwise be owed to the Town by Entergy based on full and fair cash valuation;

NOW, THEREFORE, Entergy and the Town stipulate and agree as follows:

1. Annual Payments. Entergy and the Town agree that the respective annual payments due for Fiscal Years 2014 through 2016 ("Annual Payments") shall be as follows:

Fiscal Year	Payment
2014	\$10,000,000
2015	\$9,500,000
2016	\$9,250,000

Such amounts shall be paid on a quarterly basis and shall be delivered to the Town of Plymouth Tax Collector, 11 Lincoln Street, Plymouth, MA, 02360.

1st Quarter due August 1<sup>st</sup>  
2<sup>nd</sup> Quarter due November 1<sup>st</sup>  
3<sup>rd</sup> Quarter due February 1<sup>st</sup>  
4<sup>th</sup> Quarter due May 1<sup>st</sup>

2. Adjustments. Entergy and the Town agree that the Annual Payments for the Plant for Fiscal Years 2015 and 2016 may be adjusted prospectively to reflect additions and/or retirements, if any, to the real and personal property located at the Plant. For purposes of making such adjustments, an "addition" shall be understood to mean the expenditure of funds to add to the structures and/or equipment at the Plant in such a way as to increase the productive capacity of the Plant, measured as net summer megawatt capacity, over the levels in effect at ISO-NE as of the close of the immediately prior year. For these purposes, expenditures in the nature of fuel storage

equipment, repairs, replacements or maintenance do not result in “additions.” In the case of a replacement which does not enhance the productive capacity of the Plant, the replacement would not be reported as an addition. A retirement requiring an adjustment in the Annual Payments will occur when a component or unit subject to tax under G.L. c. 59 is removed from the Plant and, as a result of the retirement, the summer capacity rating of the Plant is reduced by ISO-NE. Should an addition and/or retirement occur, Entergy shall submit a proposed adjustment reflecting the net effect of the addition and/or retirement completed during the year and supported by the capacity value impact of each material addition and/or retirement. The adjustment to the Annual Payments shall be proportionate to the percentage change in the net summer megawatt capacity of the Plant.

3. Arbitration. In case of a disagreement about the adjustment to be made which the Parties cannot resolve, they will refer the matter for arbitration in accordance with the following rules:

a) Either Party may commence arbitration by delivering to the other Party, by a means requiring a written acknowledgment of receipt, a request for arbitration which specifies the items to be resolved. Such a request shall be delivered on or before the third Monday in July.

b) There shall be a panel of three arbitrators who shall conduct hearings in the New England region unless the Parties mutually agree to a different location. Each Party shall select a member of the panel. These two members will select a third independent member to serve on the panel. Each member of the panel shall be experienced in the area of property valuation and in particular the valuation of property used for the generation of electricity. Selection shall be completed so as to follow the timetable set in subparagraph (c) below.

c) The arbitration hearing shall commence not later than August 1 and shall proceed from day to day, consecutively, for no more than three hearing days. The panel shall issue its decision on or before September 1 of that year.

d) Except insofar as the scheduling provisions of this paragraph 3 supersede them, the Commercial Arbitration Rules of the American Arbitration Association then in effect shall govern the arbitration proceedings.

e) In the event of arbitration, Entergy shall provide the Town an opportunity to audit and inspect Entergy's records with respect to the specific factual matters in dispute in the arbitration proceeding. The scope of such audits shall be limited to reviewing information that is reasonably necessary to ascertain the accuracy of the information provided or omitted by Entergy in its proposed adjustment. Such records shall be made available for inspection upon seven (7) days prior notice during normal business hours at the Plant and in such manner as to not unreasonably interfere with Entergy's normal business activities. If such records are not kept at the Plant, Entergy shall make copies available to the Town at the Facility within seven (7) business days of the request. Any information provided to the Town as part of an audit shall be treated as confidential unless in violation of applicable law.

f) The decision of the arbitration panel shall be binding on both Parties; and there shall be no further judicial review of that decision.

g) The Parties shall share the costs incurred by the arbitration panel equally and shall also pay their own expenses in connection with the arbitration, including but not limited to expert witness expenses and attorney fees.

4. Late Payments. In accordance with G.L. c. 59, §57, the Town may assess penalties for late payments of Annual Payments due under the provisions of this PILOT Agreement. The Town expressly reserves all rights available to it respecting the collection of such Annual Payments. Late payment shall be deemed to be an event of default under this PILOT Agreement. In the event a payment is not timely received by the Town, the Town shall issue a notice of default to Entergy and Entergy shall have seven (7) days within which to cure such default, subject to any penalties under G.L. c. 59, §57. If Energy fails to timely cure the default, the Town may declare this PILOT Agreement null and void as of the tax year which follows the billing cycle in which the breach occurred. Notwithstanding the foregoing, if Entergy's failure to timely cure the default is as a result of an event of Force Majeure, Entergy's obligation to make the payment then due shall be suspended to the extent that such obligation cannot be performed as a result of the Force Majeure. The suspension of performance shall be of no longer duration than is required as a result of the Force Majeure. For the purposes hereof, Force Majeure means an event, condition or circumstance which is not within the reasonable control of Entergy, and which, by the exercise of due diligence, Entergy is unable to prevent or overcome, including but not limited to, events in the nature of acts of God, war, terrorist activity, hurricanes and flooding. In case of a disagreement which the Parties cannot resolve regarding suspension of performance due to an event of Force Majeure, they will refer the matter for arbitration in accordance with the procedures set forth in Section 3 of this PILOT Agreement.

5. Exemptions and Abatements. Nothing in this PILOT Agreement shall prohibit Entergy or its successors or assigns from filing an application or applications with the Massachusetts Department of Environmental Protection ("MassDEP") for property tax exemption certification pursuant to G.L. c. 59, § 5(44) for existing or new pollution control equipment at the

Plant. However, during the period that this PILOT Agreement is in force and effect, the Annual Payments shall not be reduced as a result of existing or new pollution control equipment being certified by MassDEP for exemption from property tax. During the period that this PILOT Agreement is in force and effect, Entergy or its successors or assigns shall provide the Town with a copy of each application it files with MassDEP for property tax exemption certification under G.L. c. 59, § 5(44) within five (5) business days of filing. Nothing in this PILOT Agreement shall prohibit the Town from objecting to and protesting any such application or applications by Entergy or its successors or assigns.

6. Mutual Benefits. The Parties acknowledge that this PILOT Agreement is fair and beneficial to them because it resolves all tax issues between them, including any litigation which might otherwise ensue concerning Fiscal Years 2014 through 2016, with resulting substantial costs. Moreover, both Parties value the tax and economic stability achieved by this PILOT Agreement at a time of uncertainty as to the fair cash value of property used for the production of electricity.

7. Benefits to the Town. The Town acknowledges that this PILOT Agreement is beneficial to it because it will result in steady, predictable, and reasonable Annual Payments from the Plant.

8. Benefits to Entergy. Entergy acknowledges that this PILOT Agreement is beneficial to it because it provides predictability and certainty with respect to the Annual Payments due to the Town for Fiscal Years 2014 through 2016.

9. Material Interruption. Entergy and the Town stipulate and agree that in the event of a material interruption in the operation of the Plant during the term of this PILOT Agreement because of regulatory action, physical calamity or because all or any part of the Plant is taken out

of service with the intention to returning it to service at a later date, including but not limited to any such interruptions which are associated with the revocation or rescission of the Plant's National Pollution Discharge Elimination System Permit, then, for each fiscal year during which such material interruption exists, the Parties will engage in a good faith effort to determine whether and to what extent the value of the Plant and related Annual Payment should be adjusted to account for the material interruption. If it is not possible to reach a mutually acceptable resolution through negotiation, the arbitration provisions of paragraph 3 above shall apply, provided, however, that the Parties shall adapt the time schedule as may be required to achieve a comparably efficient process for resolving the dispute. For the purpose of this PILOT Agreement, the Parties agree that a material interruption shall be defined as any reduction in the net output of electricity from the Plant which results in at least a twenty-five (25) percent decrease in the net output of electricity in that fiscal year as compared to the Plant's average net output of electricity over the five (5) prior calendar years, where the net output of electricity consists of gross station output (measured at unit generator leads) minus all auxiliary power requirements; provided, however, that a planned outage to refuel the Plant shall not constitute a material interruption for purposes of this PILOT Agreement.

10. No Precedent. This PILOT Agreement is entered into in good faith to resolve future disputes and to achieve predictability and economic stability for both Parties by establishing a schedule of Annual Payments based on reasonable, accurate, and reliable fair cash values for the Plant for Fiscal Years 2014 through 2016. Accordingly, Entergy and the Town agree that neither Party shall seek to use the Annual Payments agreed to under this PILOT Agreement in any future proceedings regarding the value of the Plant in the Town or in any other proceeding regarding the value of any other Entergy property.

11. Cessation of Operations. This PILOT Agreement shall terminate upon cessation of operations and submittal to the NRC by Entergy of a notice of intent to decommission. Should Entergy decide to terminate operations during the Term of the PILOT Agreement, the Parties will enter into good faith negotiations to attempt to agree on an amendment to this PILOT Agreement for payments to the Town for a period after the cessation of operations.

12. Advice of Counsel. The Parties have entered into this PILOT Agreement only after full and due consideration thereof and with the advice of their counsel and of their independent consultants.

13. Good Faith Implementation. Entergy, on behalf of itself and any successors to or assigns of its interest in the Plant, and the Town agree to act in good faith, each to the other, to carry out this PILOT Agreement and shall endeavor to resolve amicably any disputes or disagreements which may arise hereunder.

14. Conditions Precedent. The obligations of the Parties under this PILOT Agreement are conditioned on (i) approval of the PILOT Agreement by the Town of Plymouth acting by a vote of its Town Meeting, and (ii) the Town promptly submitting this PILOT Agreement to the Massachusetts Department of Revenue (“DOR”) and DOR having no objection within the thirty (30) day review period. In the event that DOR objects to the PILOT Agreement or the PILOT Agreement is not approved by the end of Town Meeting commencing on October 19, 2013, the PILOT Agreement shall become null and void and of no further effect unless otherwise agreed by the Parties in writing.

15. Buyer’s Exclusive Obligation. Entergy and the Town hereby expressly stipulate and agree that in the event that Entergy were to sell the Plant, the Town will look only and exclusively to the buyer to pay future real and personal property tax obligations which may arise

under this PILOT Agreement or otherwise arise under state law, and that this PILOT Agreement shall not impose upon Entergy any liability or obligations to the Town with respect to such Annual Payments for the Plant after the date of such sale, except for such Annual Payments due and owing the Town as of the date of the sale. Entergy may assign to the buyer its rights and obligations under this PILOT Agreement.

16. Change in Law. Entergy and the Town hereby stipulate and agree that no portion of this PILOT Agreement shall be enforceable, and the PILOT Agreement shall terminate if (a) any material portion of this PILOT Agreement is determined or declared to be illegal, void, or unenforceable; or (b) the Massachusetts General Court abolishes an ad valorem tax on property used for the production of electricity. In the event that the Massachusetts General Court enacts another means of taxation or assessment in addition to ad valorem taxation applicable to the Plant during the term of the PILOT Agreement, the payments due under the PILOT Agreement shall be reduced each fiscal year by the amount of such taxes or assessments actually paid by Entergy.

17. Renegotiation Obligations. Entergy and the Town agree that in the event this PILOT Agreement terminates pursuant to the provisions of paragraph 16 of this PILOT Agreement, and that such event does not occur through the direct fault of either Party, that the Parties will in good faith attempt to negotiate a new agreement which will seek to accomplish and implement the objectives and purposes of this PILOT Agreement for the same period of time as is addressed by this PILOT Agreement.

18. Entergy's Representations and Warranties. Entergy hereby makes the following representations and warranties to the Town:

a) Entergy is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and has the full corporate power and authority to carry on its business as it is now being conducted.

b) This PILOT Agreement constitutes the legal, valid and binding obligation of Entergy enforceable in accordance with its terms, except to the extent that the enforceability may be limited by applicable bankruptcy, insolvency or other laws affecting other enforcement of creditors' rights generally or by general equitable principles. Entergy has taken all necessary corporate action to authorize and approve the execution and delivery of this PILOT Agreement.

c) None of the documents or information furnished by or on behalf of Entergy to the Town in connection with negotiation and execution of this PILOT Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading.

d) The person executing this PILOT Agreement on behalf of Entergy has the full power and authority to bind it to each and every provision of this PILOT Agreement.

19. Town's Representations and Warranties. The Town hereby makes the following representations and warranties to Entergy:

a) The Town is a municipal corporation and body politic of the Commonwealth of Massachusetts.

b) Subject to satisfaction of the conditions precedent in Section 14, this PILOT Agreement constitutes the legal, valid and binding obligation of the Town

enforceable in accordance with its terms. The Town will take all necessary action to authorize and approve the execution and delivery of this PILOT Agreement.

20. Development Restriction. In consideration of the Town's willingness to enter into this PILOT Agreement, Entergy agrees that, during the term of this PILOT Agreement, Entergy will neither develop for residential purposes any of the approximately 1542.717 acres of forestry land which it owns in the Town, nor sell any of such land for purposes of residential development. Entergy further agrees to record this non-development agreement as a Restriction In Gross substantially in the form attached hereto as Exhibit 2.

21. Notices. All notices and consents required or permitted by this PILOT Agreement shall be in writing and, if mailed, shall be deemed to have been given when sent by facsimile and dispatched by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Plymouth:

Town Manager  
Town Hall  
11 Lincoln Street  
Plymouth, MA 02360  
Fax: (508) 830-4140

With a copy to:

Board of Assessors  
Town Hall  
11 Lincoln Street  
Plymouth, MA 02360  
Fax: (508) 830-4062

If to Entergy:

Tax Officer  
Entergy Services, Inc.  
639 Loyola Avenue  
Mail Stop: L-ENT-12B  
New Orleans, LA 70113  
Fax: (504) 576-6500

With a copy to:

Director, State and Local Taxes  
Entergy Services, Inc.  
639 Loyola Avenue  
Mail Stop: L-ENT-12B  
New Orleans, LA 70113  
Fax: (504) 576-6500

22. Amendments. No amendment to this PILOT Agreement shall be effective until reduced to writing and executed and delivered by the Town and Entergy.

23. Counterparts. This PILOT Agreement may be executed in counterparts by the Parties hereto and will become binding upon the Parties at such time as the signatories hereto have signed each counterpart of this PILOT Agreement. All counterparts executed shall constitute one PILOT Agreement binding all Parties hereto, notwithstanding that all Parties are not signatories to the original or same counterpart.

24. Waivers. No waiver by either Party hereto of any one or more defaults by the other Party in the performance of any provision of this PILOT Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of either Party hereto to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party so failing. A waiver of any of the provisions of this PILOT Agreement shall only be effective if made in writing and signed by the Party who is mailing such waiver.

25. Construction. The Parties agree that they have shared equally in the drafting of this PILOT Agreement, and, therefore, neither shall be treated as the drafter for purposes of the application of any rule of strict construction.

26. Complete Agreement. This PILOT Agreement is a full, final and complete expression of the Parties' agreement on all real and personal property tax issues respecting all of Entergy's property identified in Exhibit 1 in the Town for the fiscal years and in the manner stated herein.

[Remainder of page intentionally left blank]

Executed this 13<sup>TH</sup> day of AUGUST, 2013, by the undersigned who represent

that they are fully and duly authorized to act on behalf of their principals.

BOARD OF SELECTMEN OF  
THE TOWN OF PLYMOUTH

By: 

By: 

By: 

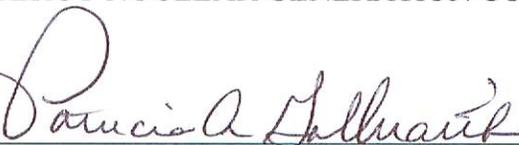
By: 

By: 

TOWN MANAGER OF THE  
TOWN OF PLYMOUTH



ENTERGY NUCLEAR GENERATION CO.

By:   
Patricia A. Galbraith, Tax Officer

## **EXHIBIT 1**

That certain parcel of land situated in the Town of Plymouth, shown as Lot 1B on Map 44 of the Assessors Maps, containing 133.57 acres; together with all buildings, structures, fixtures and other improvements, above or below ground, now located on or in the premises. The property described in this exhibit shall include neither: 1) those easements reserved by Boston Edison Company as described in a deed to Entergy Nuclear Generation Company recorded at Plymouth County Registry of Deeds at Book 17658, page 265; nor 2) any property, equipment or fixtures of whatever nature presently or hereafter erected or maintained by Boston Edison Company within such easements.

**EXHIBIT 2**  
**FORESTRY LANDS**  
**DECLARATION OF**  
**RESTRICTIVE COVENANT**

This Agreement made this 13<sup>TH</sup> day of AUGUST, 2013, by and between ENTERGY NUCLEAR GENERATION COMPANY (the "Grantor") and THE TOWN OF PLYMOUTH (the "Grantee").

WHEREAS, the Grantor is the owner of certain land (the "Burdened Parcel") located in Plymouth, Plymouth County, Massachusetts, which land is described more particularly in a deed from Boston Edison Company to the Grantor, which deed is recorded with the Plymouth County Registry of Deeds at Book 17658, Page 265;

WHEREAS, the Grantee is the owner of certain land (the "Benefited Parcel") located in Plymouth, Plymouth County, Massachusetts, which land is described more particularly in a deed from Neil McIntosh to the Grantee, which deed is recorded with the Plymouth County Registry of Deeds, Land Court Certificate No. 13599;

WHEREAS, the Grantor and the Grantee have entered into a Payment in Lieu of Tax Agreement ("PILOT Agreement"), dated AUGUST 13, 2013, with respect to the Grantor's obligation to pay real estate and personal property taxes to the Grantee (the "PILOT Agreement"); and

WHEREAS, in accordance with Section 17 of the PILOT Agreement, the Grantor has agreed to impose certain restrictions on the Burdened Parcel for the benefit of the Benefited Parcel.

NOW, THEREFORE, for valuable consideration each to the other paid, the receipt and sufficiency of which are hereby acknowledged, the Grantor and the Grantee hereby agree as follows:

1. For so long as the PILOT Agreement is outstanding and in effect, but in no event later than June 30, 2016, the Grantor will not use the Burdened Parcel, nor will it permit the Burdened Parcel to be used, for residential purposes, nor shall it construct, or permit the construction of, any improvement intended for residential use on the Burdened Parcel. For the purpose of this Declaration of Restriction, a determination of whether or not a use or structure is “residential” shall be made with reference to the Zoning By-Laws of the Town of Plymouth.

2. This Declaration of Restriction is intended to burden the Burdened Land and to benefit the Benefited Parcel and shall be appurtenant to each of the Parcels and shall be binding upon the Grantor’s and the Grantee’s respective successors and assigns and shall run with the land.

3. This Declaration of Restriction shall terminate and shall be of no further force and effect if the PILOT Agreement becomes void or is terminated according to the terms of the PILOT Agreement. The recording of an affidavit in the Plymouth County Registry of Deeds by the then record owner of the Burdened Parcel stating that the PILOT Agreement is void or has terminated shall be conclusive evidence as to third parties of the truth of the matters stated therein.

4. This Declaration shall not be construed as creating any rights in the public in and to the Burdened Parcel.

WITNESS, the execution hereof under seal.

GRANTOR:

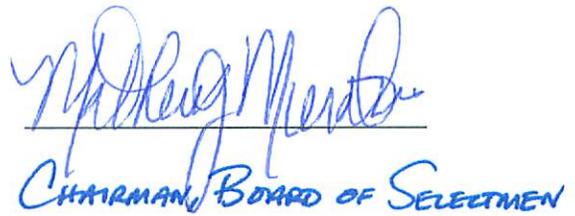
ENTERGY NUCLEAR  
GENERATION COMPANY



A handwritten signature in blue ink, appearing to read "R. W. [unclear]", is written over a horizontal line.

GRANTEE:

TOWN OF PLYMOUTH



A handwritten signature in blue ink, appearing to read "Mark [unclear]", is written over a horizontal line. Below the signature, the text "CHAIRMAN, BOARD OF SELECTMEN" is written in blue ink.

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

On this 13TH day of AUGUST, 2013, before me, the undersigned Notary Public, personally appeared the above-named MATHEW J. MURATORE, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.



Notary Public

My commission expires: April 25, 2014



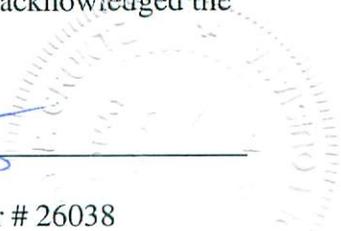
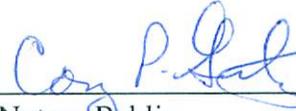
TIFFANY K. PARK  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
April 25, 2014



STATE OF LOUISIANA

Parish of Orleans, ss.

On this 7 day of August, 2013, before me, the undersigned Notary Public, personally appeared the above-named R. Ken Looper II, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.



Notary Public

Cory P. Gruntz LA Bar # 26038

My commission expires: at death