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November 19, 2024

BY HAND

Hon. Bernard J. Logan, Clerk
State Corporation Commission
Document Control Center
Tyler Building – First Floor
1300 East Main Street
Richmond, Virginia 23219

**Re: Application of Rappahannock Electric Cooperative,
Hyperscale Energy Services, LLC,
Hyperscale Energy 1, LLC, and Hyperscale Energy 2, LLC
For approval of affiliate arrangements and
for future, limited exemptions pursuant to
Chapter 4 of Title 56 of the Code of Virginia
Case No.: PUR-2024-00 213**

Dear Mr. Logan:

Enclosed for filing in the above-referenced proceeding, please find an original and one copy of the Public Version of the Application of Rappahannock Electric Cooperative, Hyperscale Energy Services, LLC, Hyperscale Energy 1, LLC, and Hyperscale Energy 2, LLC for approval of affiliate arrangements and for future, limited exemptions pursuant to Chapter 4 of Title 56 of the Code of Virginia. An original and 15 copies of the Confidential Version of the Application are being filed under separate cover.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Timothy E. Biller
Enclosures

cc: William H. Chambliss, Esq.

C. Meade Browder, Jr., Esq.

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REC'D - CIVIL RIGHTS
NOV 19 2024

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

APPLICATION OF

RAPPAHANNOCK ELECTRIC
COOPERATIVE,

CASE NO. PUR-2024-00__

HYPERSCALE ENERGY SERVICES, LLC,

HYPERSCALE ENERGY 1, LLC,

And

HYPERSCALE ENERGY 2, LLC

For approval of affiliate arrangements and
for future, limited exemptions
pursuant to Chapter 4 of Title 56 of the
Code of Virginia

APPLICATION AND REQUEST FOR FUTURE, LIMITED EXEMPTIONS

Pursuant to Chapter 4 of Title 56 of the Code of Virginia (the “Affiliates Act”), Rappahannock Electric Cooperative (“Rappahannock,” “REC,” or “Cooperative”) and its subsidiary Hyperscale Energy Services, LLC (“HES”) along with the current and future subsidiaries of HES—including Hyperscale Energy 1, LLC (“HE1”), and Hyperscale Energy 2, LLC (“HE2”)—(collectively “Dedicated Service Affiliates” or “DSAs”) (REC, HES, and the DSAs are referred to collectively as “Applicants”) hereby request approval of the State Corporation Commission (“Commission”) to enter into an Umbrella Operating Services Agreement (“OSA”) and associated contracts and transactions, as described below. Further, Applicants seek approval to add additional affiliates to the OSA and enter into certain future contracts with Dedicated Service Affiliates consistent with the form approved in this proceeding without requiring additional approvals and/or through an exemption pursuant to Va. Code § 56-

77 B from the filing and prior approval requirement of the Affiliates Act. In support of this Application, the Applicants state as follows:

I. PARTIES

1. Rappahannock is a member-owned utility consumer services cooperative that provides electric service to more than 170,000 meters in portions of the following 22 Virginia counties: Albemarle, Caroline, Clarke, Culpeper, Essex, Fauquier, Frederick, Goochland, Greene, Hanover, King and Queen, King William, Louisa, Madison, Orange, Page, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren.

2. HES is a wholly-owned subsidiary of Rappahannock, formed in 2023, for the purpose of providing management services and labor to its subsidiaries, the Dedicated Service Affiliates.

3. HE1 and HE2 are wholly-owned subsidiaries of HES, formed in 2024, for the purpose of securing power supply necessary to serve members of the Cooperative. Specifically, HE1 and HE2 were formed as the initial Dedicated Service Affiliates for the purpose of providing power supply services necessary for serving exceptionally-sized customers seeking to locate in the Cooperative's service territory. HES will form additional Dedicated Service Affiliates as needed in order to obtain power supply for additional large-load customers of REC.

4. Rappahannock, HES, and the DSAs are "affiliated interests" within the meaning of Va. Code § 56-76.

II. BACKGROUND

5. As previously described to the Commission in detail in Case Nos. PUR-2024-00015 & PUR-2024-00016, Rappahannock has garnered significant interest from large-scale data center developers seeking to establish operations within Rappahannock's service territory.

Many of these developers are constructing facilities whose electric power demand would easily eclipse the aggregate peak demand of not only Rappahannock's entire service territory, but also the total aggregate peak electric power demand of Old Dominion Electric Cooperative ("ODEC"), Rappahannock's primary generation and transmission provider. Rappahannock and ODEC have worked together to identify and develop ways to provide the power supply that these exceptionally-sized customers require while also attempting to protect the interests of the existing membership of Rappahannock and ODEC and insulate them from additional risk inherent in making such large purchases in the energy supply markets.

6. Currently, Rappahannock receives nearly all of its generation and transmission services (also known as power supply) from ODEC. ODEC's supply of power to Rappahannock is governed by an all-requirements wholesale power contract. This all-requirements contract allows an ODEC member to present ODEC any power supply offer it receives from another supplier. If ODEC chooses not to avail itself of such alternate purchase, the ODEC member may purchase supply from the alternative supplier.

7. On September 28, 2023, Rappahannock established its affiliate, HES, to facilitate Rappahannock's provision of power supply to exceptionally-sized customers. In turn, HES has established the Dedicated Service Affiliates, each of which are intended to be dedicated to securing the power supply to meet the needs of a specific, exceptionally-sized customer seeking to locate in Rappahannock's service territory ("Customer"). HES intends to continue to establish additional DSAs in the future as required to serve additional Customers.

8. On January 15, 2024 and June 28, 2024, ODEC's Board of Directors passed a series of affirmative resolutions declining offers of alternate supply from HES and its subsidiaries to serve a total of 13 potential Customers in REC's service territory. As a result of

these actions, the power supply needs of these potential Rappahannock members will not be met through the Cooperative's all-requirements contract with ODEC and instead may now be secured through the DSAs.

9. On January 23, 2024, Applicants filed an application with the Commission in Case No. PUR-2024-00016 ("Initial Affiliate Application") seeking approval of an operating services agreement between Applicants intended to facilitate a structure under which the DSA would make direct sales of power supply to a Customer in order to protect Rappahannock and its members from the risks inherent in the Cooperative taking title to the power supply needed to serve these exceptionally-sized loads. Also on January 23, 2024, Applicants filed a Petition for Declaratory Judgment in Case No. PUR-2024-00015 ("Declaratory Judgment") to address certain legal questions related to the affiliate arrangement proposed in the Initial Affiliate Application, including whether Rappahannock would be able to fulfill its obligation to provide electric service to certain large-scale data center members pursuant to 20 VAC 5-312-20 E through the arrangement.

10. On April 3, 2024, the Commission granted a motion filed by Applicants in Case No. PUR-2024-00016 allowing them to withdraw the Initial Affiliate Application pending a decision on the legal questions at issue in the Declaratory Judgment proceeding.

11. On October 2, 2024, the Commission issued an order denying the Declaratory Judgment petition, finding that there was not statutory authority for the arrangement contemplated in the Initial Affiliate Application.¹ Nevertheless, the Commission recognized that

¹ *Petition of Rappahannock Electric Cooperative, Hyperscale Energy Services, LLC, and Hyperscale Energy 1, LLC, For a declaratory judgment and, if necessary, a partial waiver of the requirements of 20 VAC 5-312-20 E*, Case No. PUR-2024-00015, Doc. Con. Cen. No. 241020022, Final Order at 7 (Oct. 2, 2024).

the rapid growth of load from large, hyperscale retail customers is creating new risks for utilities that may require different approaches than have been used to serve customers in the past.²

12. Based on the Commission's decision in the Declaratory Judgment proceeding and Commission Staff's suggestions in that proceeding and in Case No. PUR-2024-00016, Applicants have revised the proposed affiliate arrangement for allowing Rappahannock to provide service to exceptionally-sized Customer loads.³ Specifically, the approvals sought in this Application will allow HES and the Dedicated Service Affiliates to obtain the power supply needed to serve these Customers and provide this power supply to Rappahannock ("Revised Affiliate Arrangement"). Rappahannock in turn will sell the power to the Customers pursuant to a newly-designed tariff that the Cooperative intends to file with the Commission.

III. REQUESTS FOR APPROVAL

13. Applicants hereby request approval of a number of arrangements that will allow Applicants to establish and operate under the Revised Affiliate Arrangement. Specifically, Applicants request approval, as further detailed below, of the following agreements in this Application:

- a. an umbrella Operating Services Agreement ("OSA");
- b. a form Wholesale Power Contract ("WPC");
- c. a Loan Agreement; and
- d. a Trademark License Agreement.

² *Id.*

³ See, e.g., Comments of the Commission Staff at 6, *Petition of Rappahannock Electric Cooperative, Hyperscale Energy Services, LLC, and Hyperscale Energy 1, LLC, For a declaratory judgment and, if necessary, a partial waiver of the requirements of 20 VAC 5-312-20 E*, Case No. PUR-2024-00015, filed on Mar. 22, 2024.

Applicants request approval of these agreements to allow Rappahannock to meet its service obligations and stand ready to provide service to exceptionally-sized customers.

A. Operating Services Agreement

14. Under the OSA, Rappahannock will provide executive management services to HES. HES in turn will provide management and administrative support services to the Dedicated Services Affiliates to permit these affiliates, which will provide energy services and wholesale power supply to Rappahannock. In addition, the OSA establishes the terms for payments between Applicants to compensate each for the provision of services under the OSA. Additional details about the OSA are set forth in the Transaction Summary included as Attachment A to the Application. A copy of the OSA is included as Attachment B to the Application.

15. As noted above and in the OSA, REC and HES anticipate forming additional Dedicated Service Affiliates as the need arises to serve additional Customers. In fact, as referenced in the OSA, since the Initial Affiliate Application was filed with the Commission ODEC has declined an offer of alternate supply associated with an additional 11 potential new Customers in Rappahannock's service territory. As these Customers proceed with development of their facilities, REC and HES will establish new Dedicated Service Affiliates to meet the power supply needs of these new members. The Applicants intend for the new DSAs to become parties to the OSA and subject to the same terms and conditions as all other DSA. Accordingly, Applicants respectfully request that the Commission's approval of the OSA allows for the addition of future DSAs without requiring separate Commission approval unless there is a change in the terms and conditions of the OSA. Instead of requiring a new application at the time each new DSA is formed, Applicants request that the Commission permit Applicants to

(1) submit notice to Commission Staff of the addition of new DSAs; (2) that a full listing of all current DSAs be included in Rappahannock's Annual Report of Affiliate Transactions ("ARAT"); and (3) that all Dedicated Service Affiliates that are parties to the OSA be included in any future application to renew or modify the approval granted in this proceeding.

B. Wholesale Power Contract

16. As discussed above, under the Revised Affiliate Arrangement Rappahannock will purchase the power supply needed to serve each Customer from the DSA that is dedicated to serve that Customer. Accordingly, Rappahannock and each DSA will enter into a specific Wholesale Power Contract to set the terms of this wholesale transaction. The form of the proposed WPC is attached as CONFIDENTIAL Exhibit 1 to the OSA and additional details of the terms and conditions incorporated into the WPC are set forth in the Transaction Summary.

17. Applicants are submitting the form of the WPC for the Commission's review and approval under the Affiliates Act in this Application. Applicants intend to prepare and execute specific WPCs between REC and each DSA following execution of an energy services agreement ("ESA") between the Cooperative and each individual Customer pursuant to the Cooperative's forthcoming Rate Schedule LP-DF. This will allow Applicants to ensure that each WPC appropriately reflects the power supply service requirements of each Customer to which the specific DSA will be dedicated.

18. Consistent with the Commission's prior decisions that "[u]nder the Affiliates Act, the Commission either approves or rejects the 'structure' of these affiliate transactions"⁴ Applicants respectfully request that the Commission approve the form and structure of the

⁴ *Application of Central Virginia Electric Cooperative and Central Virginia Services, Inc., For approval of affiliate arrangements*, Case No. PUR-2018-00113, 2018 S.C.C. Ann. Rep. 476, 479 (Oct. 23, 2018)(citing *Commonwealth Gas Services, Inc. v. Reynolds Metals Co.*, 236 Va. 362, 368 (1988)).

affiliate transaction for sales of wholesale power in this proceeding through the form of the WPC provided with this Application. Following this approval, Applicants request that they be permitted to enter into specific WPCs in the future without requiring additional approvals. If the Commission finds it necessary, Applicants hereby request that the Commission grant an exemption pursuant to Va. Code §56-77 B from the prior approval requirement for each individual WPC unless the terms vary from the form approved by the Commission in this proceeding. Granting such an exemption is consistent with prior proceedings in which the Commission has reviewed and approved form agreements to be entered into between a utility and its affiliate.⁵

19. To ensure that the Commission can continue to appropriately exercise its authority under Va. Code § 56-80, Applicants request that in lieu of filing a new application under the Affiliates Act for each new WPC and similar to the request related to the addition of new DSAs to the OSA, that the Commission permit Applicants to (1) submit notice to Commission Staff of the execution of each new WPCs along with copies of the confidential WPC; and (2) that a full listing of all current WPCs be included in Rappahannock's Annual Report of Affiliate Transactions ("ARAT"). Should Rappahannock and a future DSA seek to enter into a WPC with terms that substantively vary from the form approved in this proceeding, REC and the DSA would file an application to seek approval from the Commission for those changes to the WPC.

20. Granting Applicants authority to enter into specific WPCs consistent with the form approved in this proceeding without requiring they first be filed and approved as proposed

⁵ See, e.g., *Application of Virginia Electric and Power Company and Atlantic Coast Pipeline, LLC, For approval of affiliate agreements and requests for future exemptions, pursuant to Chapter 4 of Title 56 of the Code of Virginia*, Case No. PUR-2017-00103, 2017 S.C.C. Ann. Rep. 550 (Oct. 17, 2017).

in this Application is in the public interest. As noted above, between January and June of 2024 an additional eleven Customers progressed in development of their facilities sufficiently for REC to begin actively planning to serve the load, resulting in the Cooperative now being responsible for obtaining the power supply to serve the loads of at least 13 different Customers with exceptionally-sized loads. Further, Rappahannock anticipates adding additional such Customers to its system in the future based on ongoing discussions with additional developers. As the timing for executing an ESA will vary from Customer to Customer and each WPC necessarily must reflect the specific, final terms of each ESA, it will be administratively burdensome on both the Commission and the Cooperative to file a separate application for all 13 or more Customers. Further, the only substantive differences between the form of the WPC included with this Application and the final WPCs that this exemption would apply to will be detailed information reflecting the requirements of the underlying ESA that will be governed by Rate Schedule LP-DF. Rate Schedule LP-DF will be submitted to the Commission for approval. The ESA and the detailed terms that will be reflected in the WPC also will reflect the product of an arms-length negotiation between the Cooperative and a Customer, ensuring that the details of the WPC will not create or promote undue cross-subsidization of the DSA to the potential detriment of the Cooperative and its customers.

C. Loan Agreement

21. HES will incur substantial costs as it works to formally establish itself and the DSA to support the transactions contemplated by the Revised Affiliate Structure. This includes incurring significant costs to establish each DSA and meet the requirements for each to have access to the PJM market, as well as certain other start-up costs. As many of these costs will be incurred before HES and the Dedicated Service Affiliates begin generating revenue, REC intends

to provide a loan to assist with these start-up costs. Included as CONFIDENTIAL Attachment C to this Application is a Loan Agreement that will govern the terms and conditions of this loan to HES. Initially, REC intends to advance \$1,500,000 to HES pursuant to the terms of the loan agreement, but requests approval to loan up to the aggregate Cooperative Commitment of \$4,500,000 set forth in Schedule 1 to the Loan Agreement. Any future advances of loan funds will continue to be governed by the Loan Agreement and require approval from the Cooperative's Board of Directors.

D. Trademark License Agreement

22. As referenced in Section 20 of the OSA, Applicants intend to enter into a Trademark Licensing Agreement to govern the use of the trademarks applicable to HES and the services it provides along with the DSAs. A copy of the form of the Trademark License Agreement is attached as Attachment D to this Application. Applicants request approval to enter into the Trademark Licensing Agreement.⁶

III. The Revised Affiliate Arrangement is in the public interest

23. The Affiliates Act provides for Commission exemption or approval of contracts or arrangements between public service companies and their affiliates for management, supervisory, construction, engineering, accounting, legal, financial, and other similar services and for the purchase, sale, lease or exchange of any property, right or thing. Va. Code § 56-77. As described in this Application, the Revised Affiliate Arrangement will allow Rappahannock to

⁶ Currently, Exhibit A to the Trademark License Agreement reflects the descriptions of the services for which the Marks will be used that are contained in the pending application with the U.S. Patent and Trademark Office ("USPTO"). REC is currently discussing with USPTO staff the most appropriate method for updating these descriptions to incorporate the fact that HES and the DSAs will be providing *wholesale sales of electric service* under the Revised Affiliate Arrangement. Once this is updated, Applicants intend to update Exhibit A accordingly to ensure it directly matches the terms of the trademarks granted. Applicants respectfully request that the Commission allow this limited revision without requiring additional approvals.

be able to fulfill its obligation to provide electric service to the exceptionally-sized Customers. At the same time, the Revised Affiliate Arrangement will provide some insulation and protection for Rappahannock's existing membership from the financial and operational risks associated with procuring and supplying the power supply necessary to serve these large-load customers in its service territory. Accordingly, the proposed Revised Affiliate Arrangement and associated agreements are in the public interest and should be approved.⁷

24. Included with this Application are the following attachments:

- a. Attachment A: Transaction Summary, which details the arrangements and contracts necessary to implement the Revised Affiliate Arrangement.
- b. Attachment B: Proposed Umbrella Operating Services Agreement, including the proposed form of the Wholesale Power Contract between the REC and each Dedicated Service Affiliate as CONFIDENTIAL Exhibit 1.
- c. CONFIDENTIAL Attachment C: Proposed Loan Agreement between the REC and HES.
- d. Attachment D: Proposed Trademark License Agreement between REC and HES.

25. HES and the DSAs will provide wholesale power supply in a competitive market. Rappahannock is currently formalizing its internal policy regarding the standards of conduct that will apply to interactions between Rappahannock, HES, and the DSAs to ensure that the relationship between the affiliates complies with the requirements of Va. Code § 56-231.34:1 and 20 VAC 5-203-10 *et seq.*

⁷ See *Roanoke Gas Co. v. State Corp. Comm'n*, 217 Va. 850, 853 (1977).

WHEREFORE, Rappahannock, HES, and the DSAs respectfully request that the Commission approve this application and grant the exemptions requested as further described above.

Respectfully submitted,

RAPPAHANNOCK ELECTRIC
COOPERATIVE

HYPERSCALE ENERGY SERVICES, LLC

HYPERSCALE ENERGY 1, LLC

HYPERSCALE ENERGY 2, LLC

By: 
Counsel

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Hunton Andrews Kurth LLP
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tel: (804) 788-8756
tbiller@hunton.com

Counsel for Rappahannock Electric Cooperative

Dated: November 19, 2024

CERTIFICATE OF SERVICE

I certify that on November 19, 2024, a copy of this document was served by electronic mail on:

William H. Chambliss
Office of the General Counsel
State Corporation Commission
Tyler Building, Tenth Floor
1300 East Main Street
Richmond, VA 23219

C. Meade Browder, Jr.
Division of Consumer Counsel
Office of the Attorney General
202 North 9th Street
Richmond, VA 23219

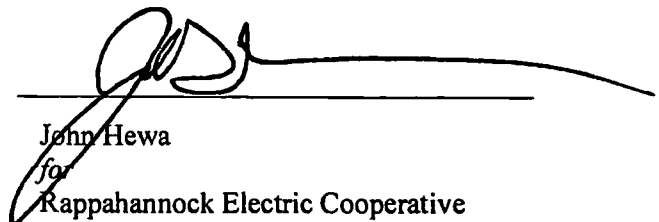


VERIFICATION

I, JOHN HEWA, state that I am the President and Chief Executive Officer of RAPPAHANNOCK ELECTRIC COOPERATIVE, and that I have read the foregoing Application and its attachments and knows the contents thereof; and that the facts stated therein are true and correct to the best of my knowledge and belief.

In accordance with Virginia Code § 8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct.

Dated: November 19, 2024



John Hewa
for
Rappahannock Electric Cooperative

VERIFICATION

I, TRACEY STEINER, state that I am the CHIEF ENGAGEMENT AND CONSUMER OFFICER of RAPPAHANNOCK ELECTRIC COOPERATIVE and the EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER of HYPERSCALE ENERGY SERVICES, LLC, HYPERSCALE ENERGY 1, LLC, and HYPERSCALE ENERGY 2, LLC, and that I have read the foregoing Application and its attachments and know the contents thereof; and that the facts stated therein are true and correct to the best of my knowledge and belief.

In accordance with Virginia Code § 8.01-4.3, I verify under penalty of perjury that the foregoing is true and correct.

Dated: November 19, 2024

Tracey Steiner

Tracey Steiner

for

Hyperscale Energy Service, LLC

Hyperscale Energy 1, LLC

Hyperscale Energy 2, LLC

TRANSACTION SUMMARY – AFFILIATE TRANSACTION¹

A. All applications filed for approval of affiliate transactions under the Affiliates Act:

1. Describe, in detail, the affiliate relationship among the parties involved.

REC is a member-owned electric utility cooperative that provides electric service to more than 170,000 meters in portions of the following 22 Virginia counties: Albemarle, Caroline, Clarke, Culpeper, Essex, Fauquier, Frederick, Goochland, Greene, Hanover, King and Queen, King William, Louisa, Madison, Orange, Page, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, and Warren.

Hyperscale Energy Services, LLC is a wholly owned affiliate of REC formed for the purpose of providing management services and labor to its subsidiaries Hyperscale Energy 1, LLC, Hyperscale Energy 2, LLC, and similar future subsidiaries.

Hyperscale Energy 1, LLC and Hyperscale Energy 2, LLC, are Virginia limited liability companies and are wholly owned subsidiaries of HES. HE1 and HE2 were formed for the purpose of securing power supply necessary to serve members of the Cooperative.

REC, HES, HE1 and HE2 are “affiliated interests” within the meaning of Virginia Code §56-76. Attachment A-1 to this Transaction Summary provides an illustration of the Cooperative’s affiliate structure.

2. Describe specific services, rights, or things to be provided.

OSA

Article II of the OSA, provided as Attachment B to the Application, describes the services, rights, or things that will be provided among Applicants under the Revised Affiliate Arrangement described in this Application.

As described in Section 8 (Cooperative to Subsidiary), under the OSA, the Cooperative will furnish executive and strategic management services to HES.

Section 9 of the OSA describes the support services to be provided from HES to the DSAs. Specifically, HES will provide qualified, professional labor to facilitate and coordinate the entry of the DSAs into the PJM markets, ensuring they are registered as an LSE and have met the eligibility requirements for participation in the appropriate PJM markets. This will include ensuring the electronic data interchanges have been set up and tested along with all other system set-up necessary to interact with PJM. HES will work with PJM to ensure that the respective DSA has adequate credit to meet PJM’s requirements to act as the LSE for a specific Customer’s load. HES also will ensure that transmission arrangements are in place

¹ Defined terms in the Application have the same meaning in this Transaction Summary.

and that all agreements with PJM have been executed as required for the DSAs to participate in PJM as independent LSEs.

In addition, HES will act as an agent for the DSAs in transacting with the PJM markets as appropriate. Daily transactions for the DSAs are expected to include scheduling hourly load forecasts supplied by the Customer into the day-ahead markets and settling real-time load that exceeds or is below the day-ahead schedule in the PJM markets. Weekly load forecasts will be provided by each Customer and will be submitted by HES on behalf of each individual DSA on a timely basis using the electronic tools as required by PJM. HES will perform settlement functions for the DSAs, ensuring that the bills received from PJM are accurate, and will ensure that those bills are paid in a timely manner. HES will bill REC on a schedule that complements the agreed upon terms between REC and its Customers and will perform accounting services associated with those receivables. Credit will be monitored daily using PJM's electronic tools and adjusted as needed.

Section 10 of the OSA provides that the DSAs will provide certain energy services and wholesale power supply ("Energy Services") to the Cooperative. Energy Services includes all services related to the provision of electric power supply from the DSAs to the Cooperative, including power supply billing, load settlement, and the provision of electric power itself. Section 10 also incorporates Confidential Exhibit 1 to the OSA, which is the form of the wholesale power contract ("WPC") that will govern these wholesale power sales between the DSA and REC.

Section 11 provides that REC will furnish certain information related to each Customer as well as credit and collateral support (as collected by Cooperative from member) to the DSA to support the DSAs' scheduling and procurement of electric power supply and to support billing functions.

Section 13 of the OSA outlines the services HES will procure through external third-party vendors. Such personnel and equipment support will be required to perform external accounting and compliance services for HES and the DSAs. The following roles are expected to be fulfilled by third-party providers through contractual arrangements:

- Accounting and Audit
- Compliance Services
- Information Technology
- Finance
- Human Resources

Loan Agreement

As detailed in Schedule 1 of the Confidential Loan Agreement, provided as CONFIDENTIAL Attachment C to the Application, REC will initially provide a \$1.5 million loan to HES to finance the operating and business needs of HES and its subsidiaries, with potential additional advances to be provided up to an amount not to exceed \$4.5 million.

Trademark License Agreement

As referenced in Section 20 of the OSA and further detailed in the Trademark License Agreement provided as Attachment D to the Application, REC will authorize the use of certain trademarks to HES for use in connection with the authorized services for those trademarks. As provided in the Trademark License Agreement, HES may grant sublicenses to the DSAs as needed.

3. **Describe the conditions and term of the agreement, contract, or arrangement, including rights of parties to cancel and renewability. If the agreement requires the utility company to become involved in a long-term captive relationship, explain why this is necessary.**

OSA

Please see the OSA, provided as Attachment B to the Application, for the specific terms and conditions. As specified in Section 23, any Party may terminate the agreement by giving the other Parties written notice prior to the effective date of termination. REC will be required to provide 60 days written notice prior to cancellation. HES and the DSAs will be required to provide three years' written notice of intent to terminate.

WPC

Please see the WPC, provided as CONFIDENTIAL Exhibit 1 to the OSA, for the specific terms and conditions, including WPC Section 8 which provides details on the term of the WPC that will be consistent with the terms of the underlying retail contract with each Customer.

Loan Agreement

Please see the Loan Agreement, provided as CONFIDENTIAL Attachment C to the Application, for the specific terms and conditions of the Loan Agreement. The Loan Agreement provides that no loan under the agreement may have a maturity date that is more than 15 years from the effective date of the Loan Agreement. The Cooperative additionally has the right to issue a notice of default and a notice of cancellation should an event of default occur. In such instances, all amounts outstanding, including principal and all accrued interest, shall immediately become due and payable.

Trademark Licensing Agreement

Please see the Trademark License Agreement, provided as Attachment D to the Application, for the specific terms and conditions of the license granted, include the term of the license and termination rights in Sections 7 and 8 of the Trademark License Agreement.

4. Provide a copy of any formal agreement. If there is no formal agreement, provide a statement to that effect with a complete description of the contract or arrangement.

- a) A copy of the Umbrella Operating Service Agreement is attached as Attachment B.
- b) The form of the Wholesale Power Contract is attached as CONFIDENTIAL Exhibit 1 to the OSA.
- c) The Loan Agreement is attached as CONFIDENTIAL Attachment C.
- d) The Trademark License Agreement is attached as Attachment D.

B. Goods or services provided to the utility:

1. Describe the utility's need for the goods or services.

REC proposes to offer, through the formation of HES and the DSAs, exceptionally-sized customers (primarily data centers) an opportunity for timely and continuous access to the wholesale power market once the permanent power substation serving the large load customer has been energized. Additionally, the proposed structure provides a means to directly serve the load while mitigating the exposure of REC's existing members' native power supply pool to the direct risk associated with serving a load of the magnitude of the incoming hyperscale data centers.

As described in the Application and provided in the WPC attached as CONFIDENTIAL Exhibit 1 to the OSA, each DSA would enter into an individual Wholesale Power Contract with REC and REC will, in turn, provide retail power supply service to the specific Customer for which the DSA is dedicated.

2. Describe the utility's current and prior arrangements for obtaining the goods or services, where applicable.

REC has a wholesale power contract ("ODEC Contract") with Old Dominion Electric Cooperative (ODEC), a Generation & Transmission Cooperative in Virginia. Traditional power supply needs have been met through this contract in accordance with the ODEC Contract's FERC-approved formula rates. However, projected data center load growth presents a material change to REC's historical load. These changes introduce the need for supply service at a scale that has not been historically provided by the Cooperative. In addition, data center customers in Virginia indicate an interest in streamlined market access to PJM as well as reliable energy supply and sustainability. The Revised Affiliate Arrangement will provide wholesale power market access in a structure that meets the needs of both the data center(s) and REC, while also complying with the Commission's decision in Case No. PUR-2024-00015. Each DSA, as a power supplier to REC, will provide power supply services dedicated to one data center Customer. This will better protect each DSA from the risks associated with serving other new datacenter customers, some of which may be up to four times the size of REC's existing peak system load. This structure provides efficiency plus a level of risk mitigation (e.g., bankruptcy, early termination etc.) for all parties involved including REC's native load and future customers.

3. **Discuss whether or not the goods or services can be provided by the utility internally. If so, quantify the costs of doing so and compare such costs to costs of obtaining such goods or services from the affiliate. If not, explain why such goods or services cannot be provided internally.**

One of the Cooperative's primary concerns is ensuring that the direct costs associated with serving large load customers are borne by the data center customers. The Affiliate structure is developed to isolate such costs in a manner that ensures the power supply costs are borne primarily by the large load customers.

4. **Discuss other alternative sources for obtaining the goods or services available to the utility. Provide specific details, quantifying the costs of obtaining such goods or services from the alternative sources and comparing those costs to the costs of obtaining the goods or services from the affiliate.**

While REC may be able to obtain supply services from other third parties, there is a small universe of qualified entities able to provide these services with qualified personnel. As structured through the Revised Affiliate Arrangement, the costs of obtaining power supply services will consider each individual customer's needs and creditworthiness. As a result, the structure does not place as much burden on REC's financial strength, which could otherwise in time ultimately have cost implications for REC and its existing customers.

5. **Explain how the costs of obtaining goods or services from the affiliate are to be determined. If costs to the utility are to be based on the affiliate's cost of providing the goods or services, provide those components. If the cost components are to include a return on investment component, state what that is and show how it is determined.**

Please see Section 15 and 18 of the OSA.

Section 15 discusses Payments from the Cooperative to the Subsidiary.

Goods and services provided by HES to REC will be provided at cost (including a margin). For HES, these fixed costs include but are not limited to: board compensation, insurance, outside services, professional fees, administration fees, IT services, and office expenses.

REC intends to recover these costs through its forthcoming Rate Schedule LP-DF. Section 18 discusses Payments from the Cooperative to Affiliates.

Energy services (wholesale power supply) provided by the the DSAs to the Cooperative will be further detailed in the WPC. Payment for such energy services will include cost components such as: energy, capacity, transmission, ancillary services, and a market access fee. The DSAs intend to use prices established in the PJM market(s) to bill the Cooperative for the wholesale power supply. Goods and services provided by a DSA (i.e. HE1) to REC will be passed through at cost plus a market access fee that will be structured consistent with similar fees from other providers.

6. **If costs to the utility are to be based on market rates, explain, in detail, how such market rates are to be determined. Provide the dollar amount and percentage of the affiliate's revenues that are derived from providing such goods or services to non-affiliated entities. Provide supporting calculations.**

See Item B5 above.

7. **If the utility is to be charged or allocated costs from the affiliate, explain how such charges or allocations are to be made, providing specific allocations methodologies. If allocation formulas are to be used, provide such formulas.**

Not applicable. Neither HES or the DSAs will allocate costs to REC.

8. **If services are not proposed to be priced at the lower of cost, plus a reasonable return, or the market price, explain why this will not be done.**

See Item B5 above.

C. Goods or services provided by the utility:

1. **Describe the affiliate's need for the goods or services.**

HES's need for goods or services will include executive and strategic management services throughout the term of the OSA as well as financial assistance through the Loan Agreement to support HES's progress toward operational readiness and growth during the initial ramp up period.

The DSAs have a need for certain Customer information as well as credit and collateral support for the purpose of procurement of electric power supply in the energy markets.

In addition, HES, and the DSAs have a need to use the Cooperative's trademarks and brands in connection with their services.

2. **Describe the affiliate's current and prior arrangements for obtaining the goods or services, where applicable.**

Not applicable.

3. **Describe how the costs of providing goods or services to the affiliate are to be determined and provide comparisons to the market rate for such services. If costs to the affiliate are to be based on the utility's costs of providing the goods or services, provide the cost components. If the cost components include a return on investment component, state what it is and show how it is determined.**

Please see Section 14 of the OSA. There are no anticipated costs associated with the Trademark License.

4. **If the utility's charges to the affiliate are based on market rates, explain, in detail, how such market rates are to be determined and state the percentage of revenues that are derived from providing such goods or services to non-affiliated entities.**

Please see Section 14 of the OSA.

5. **If the utility will be charging or allocating costs to the affiliate, explain how such charges or allocations are to be made, providing specific allocation methodologies. If allocation formulas will be used, provide such formulas.**

REC anticipates that there will be at least one full-time REC employee who will provide executive management services to HES pursuant to the OSA. The employee listed below will spend approximately 30% to 40% of their full-time equivalent time serving HES.

1. HES EVP and General Manager (Chief Engagement and Consumer Officer of REC)

Under the Agreement, the utility will charge, but not allocate, costs to HES. Specifically, for these services REC will charge HES a fixed amount for the services rendered from REC to HES. This service includes executive management (*e.g.*, personnel management). REC will calculate this fixed charge based on REC's fully loaded per-hour labor rate (plus applicable overhead) for the REC employee who provides service to HES.

Charges for REC administrative and operating services labor to support HES's progress toward operational readiness and growth during the initial ramp up period will require REC employees to separately code their time in REC's labor time tracking software to accurately reflect the hours worked to provide services to HES. The charges for any services provided to HES during the initial ramp up will be billed consistent with Section 4 of the OSA.

6. **If goods or services are not to be priced at the higher of fully distributed cost or market price, explain why this will not be done.**

Not applicable.

7. **If services will be provided by the utility to an affiliate, provide details on the amount of employee time that will be spent providing affiliate services; the number of employees that will be involved; and an explanation as to how such time will be tracked. Discuss whether the utility will need to hire additional employees or purchase additional equipment and facilities to provide the proposed services.**

REC does not anticipate any change in the number of employees as a result of providing services to HES. In fact, third-party providers will be used for a number of HES roles, including accounting, human resources, information technology services, and energy consulting services. These providers will be used to complement and aid the HES management team, providing oversight and expertise while allowing the HES and the DSAs to operate as independent organizations.

8. **If the utility is proposing to provide services to a subsidiary of the utility in order to allow the subsidiary to provide certain services to utility customers, provide information demonstrating that the services to be provided by the subsidiary are "related to or incidental to" the utility company's purpose of providing public utility service to its customers. If not applicable, please explain.**

Not applicable to Cooperatives.

D. Leasing arrangements with affiliates.

Not applicable. REC is not entering into any lease agreements with HES or the DSAs.

E. Accounting and other issues to be provided or addressed by the utility and affiliate:

- 1. Provide a copy of the utility's or affiliate's Cost Allocation Manual (depending on which entity is providing services), which describes the accounting system (to include the chart of accounts used) and cost allocation methodologies (including factors and methods of calculation) put in place to track costs accurately relative to contracts and arrangements with affiliates.**

No costs will be allocated to or from REC or HES.

- 2. Describe any specific safeguards in place to ensure that no unregulated affiliate will be subsidized by the regulated company as a result of the proposed contract or arrangement.**

REC and HES will maintain separate books and accounts in accordance with generally accepted accounting principles, and the books and records of both companies are or will be subject to examination by the State Corporation Commission. Hyperscale Energy Services (HES) is a separate legal entity. Accordingly, separate books and records will be maintained for HES's income, expenses, balance sheet and cash flow. It is anticipated that the books and records of HES and the DSAs will be independently audited. This will allow for the HES and the DSAs to fulfill PJM requirements.

- 3. Compare and contrast the utility's risk exposure as a result of the proposed arrangement and show that the arrangement is in the public interest in spite of any anticipated change in risk exposure.**

The Agreement and proposed structure does not expose REC to greater business risk than it would otherwise experience in the absence of the Revised Affiliate Arrangement. In fact, by establishing the Revised Affiliate Arrangement, REC's goal is to mitigate its exposure to the risks associated with providing energy supply service to members with large loads.

- 4. Discuss any anticipated cost savings for the utility as a result of the arrangement. Describe such anticipated savings and quantify to the extent possible. Provide support for anticipated savings. Include any anticipated impacts on operating efficiencies or quality of service and explain and quantify to the extent possible with supporting detail.**

REC has determined that, by contracting with HES for large load member energy supply services, REC will be positioned to mitigate its exposure to the prices associated with providing energy supply service to large load members and temper the burden that would be placed on REC's financial strength that could impact energy supply prices to all members.

5. **Discuss in specific terms any other anticipated positive impacts on public interest not yet addressed, including any anticipated impacts on customers' rates.**

Please see the response to Item E.4.

6. **If approval is required in other jurisdictions, provide the status of the review process in those jurisdictions and provide copies of any orders issued. Provide bi-weekly updates until a Commission Order is issued.**

Not applicable.

7. **Descriptions of goods or services to be provided or received pursuant to affiliate contracts or arrangements must be specific. Categories such as "other" and "incidental" without description of the types of services in those categories are unacceptable and cannot be recommended for Commission approval.**

No such open-ended clauses are in the proposed Agreements.

8. **If the proposed contract or arrangement is for the utility to provide services to an affiliate to support the affiliate providing services to other entities, the affiliate should have a separate accounting system established prior to obtaining Commission approval. If this has not been established, indicate when this will take place. A copy of the accounting procedures established for the affiliate showing how costs will be tracked should be provided to the Division of Public Utility Accounting.**

The Subsidiary and DSAs will set up a separate accounting system pending Commission approval in this case.

9. **If the contract or arrangement involves investment by the utility company in an affiliate and the provision of services to the affiliate to enable the affiliate to operate, describe, in specific detail, how the utility's customers (or members in the case of electric cooperatives) will be protected against any losses incurred by the affiliate.**

The Cooperative will not be investing in HES or the DSAs, instead the Cooperative will be providing loans pursuant to the Loan Agreement. Initially, any losses incurred by the DSAs will be the result of the Cooperative's inability to pay under the WPC, which in turn would be the result of a Customer's failure to pay. The Cooperative intends to seek sufficient collateral from each Customer to protect against losses as a result of either a temporary or a sustained failure by the Customer to pay for its power supply. Should such a failure to pay occur and exceed the collateral provided by the Customer, other Cooperative members will have protection as the affiliate structure has been designed to minimize the ability of losses from one DSA to impact the remaining DSAs and the Cooperative. Nevertheless, because the DSAs will be entering into wholesale transactions with the Cooperative, the Cooperative and its members will bear some risk from the arrangement, albeit less risk than if the Cooperative itself was directly purchasing power supply from the market.

10. **For contracts or arrangements in which services are offered to an affiliate operating in a competitive environment, describe, in specific detail, what steps are being taken to ensure that the affiliate is not being favored over competitors.**

Not applicable.

11. **Describe, in detail, how the proposed services provided by the utility company will be accounted for in the utility's financial records.**

The services provided by REC will be accounted for in accordance with the FERC Uniform System of Accounts.

- F. **Applications for exemption from the filing and prior approval requirements of the Affiliates Act pursuant to § 56-77 B of the Code of Virginia.**

1. **Explain, in detail, the exemption requested and the reasons for the request.**

As discussed in the Application, Applicants request an exemption from the filing and prior approval requirements for individual wholesale power contracts between REC and each DSA so long as the execute WPC does not materially vary the terms of the form WPC reviewed and approved by the Commission in this proceeding. Should REC and a DSA seek to enter into a WPC with material changes to the terms and conditions reviewed and approved by the Commission in this proceeding, separate Commission approval would be sought. In lieu of filing each individual conforming WPC for formal approval under the Affiliates Act, Applicants request that they be permitted (1) submit notice to Commission Staff of the execution of each new WPCs along with copies of the confidential WPC; and (2) that a full listing of all current WPCs be included in Rappahannock's Annual Report of Affiliate Transactions ("ARAT").

2. **Describe, in detail, the types of contracts or arrangements for which an exemption is requested and provide the names of affiliates involved.**

As discussed in the Application and in response to Item F.1 above, the exemption would only apply to wholesale power contracts between REC and a DSA that do not materially vary the terms and conditions from the form WPC reviewed and approved by the Commission in this proceeding.

3. **Provide the number of such contracts or arrangements and the total dollar amount of each contract or arrangement currently in existence.**

Not applicable.

4. **If such contracts or arrangements are not expected to affect the company's Virginia jurisdictional business, describe in detail how the Commission can be assured that will, in fact, be the case.**

Not applicable.

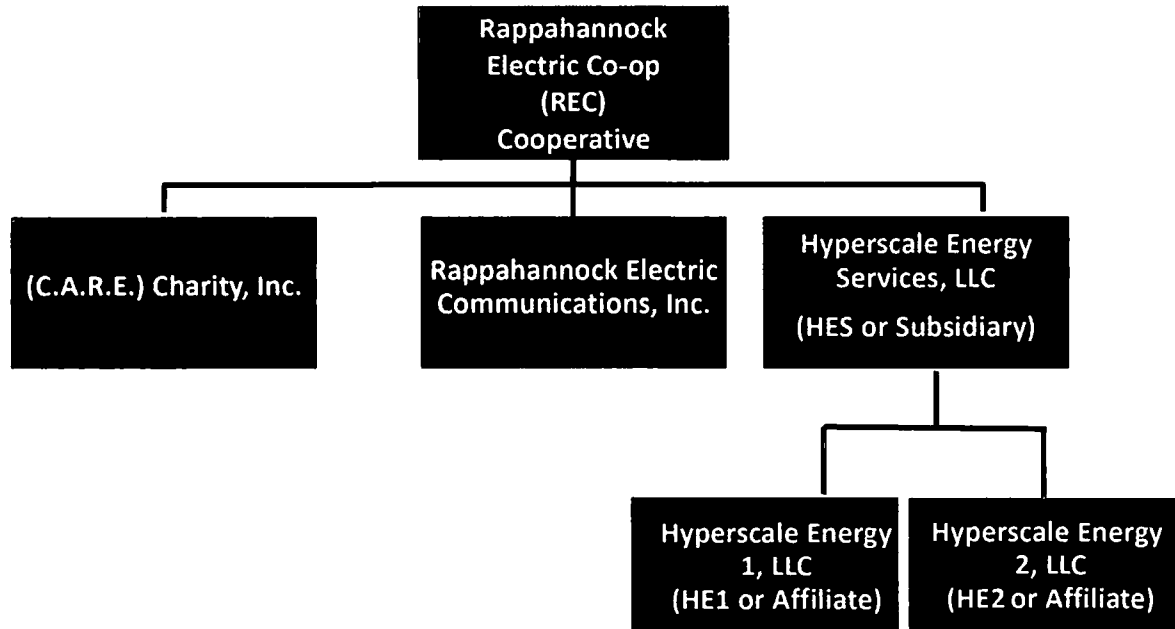
5. **Describe, in specific terms, how the requested exemption will be in the public interest.**

See discussion in Paragraph (20) of the Application.

6. **Describe the steps taken, or that will be taken, to ensure that contracts or arrangements that will continue to require prior Commission approval after such exemption is granted will be filed in a timely manner.**

Applicants intend to provide notice of the execution of each WPC along with copies of the confidential WPC to Commission Staff. Should Commission Staff determine that the WPC does not comply with the granted exemption, Applicants would promptly file such WPC for the Commission's review and approval.

REC Proposed Affiliate Structure

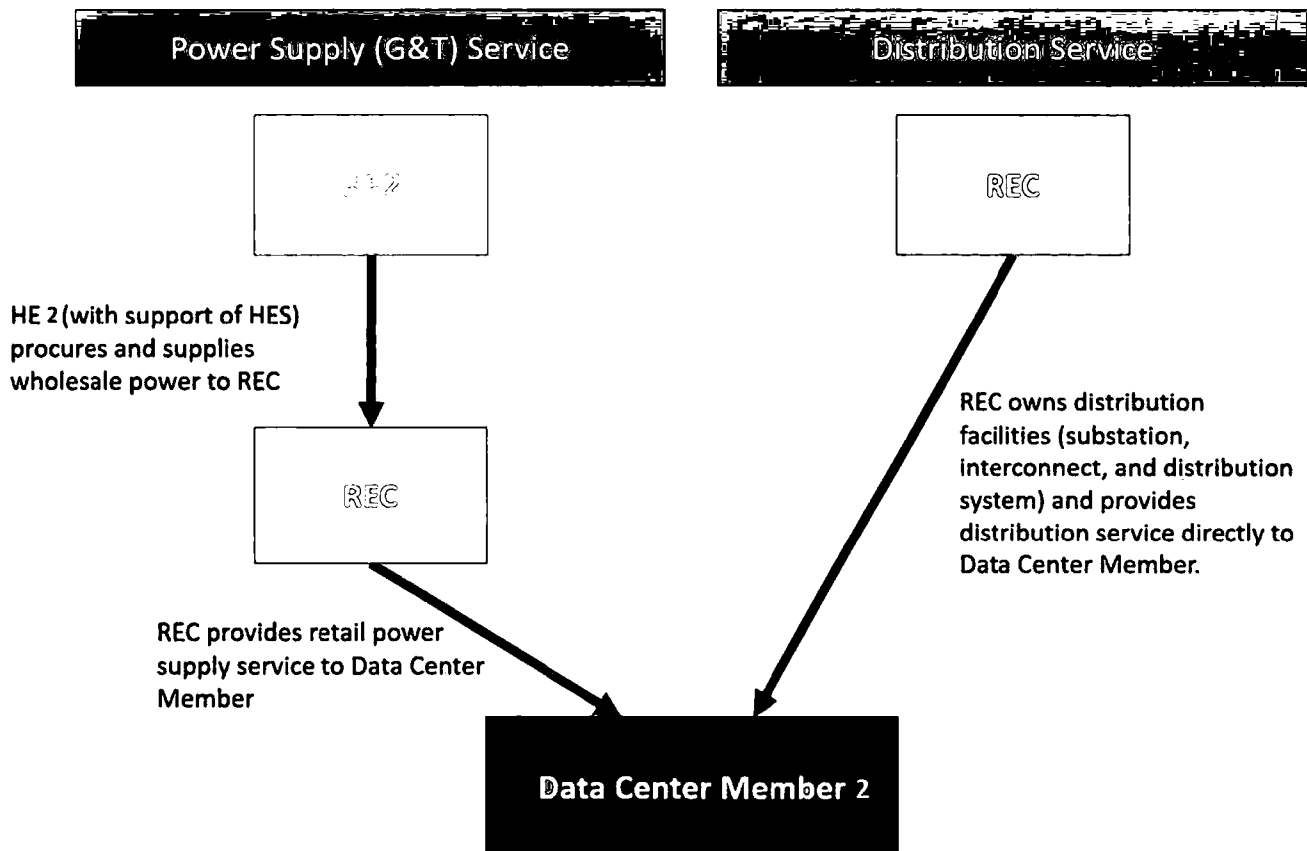
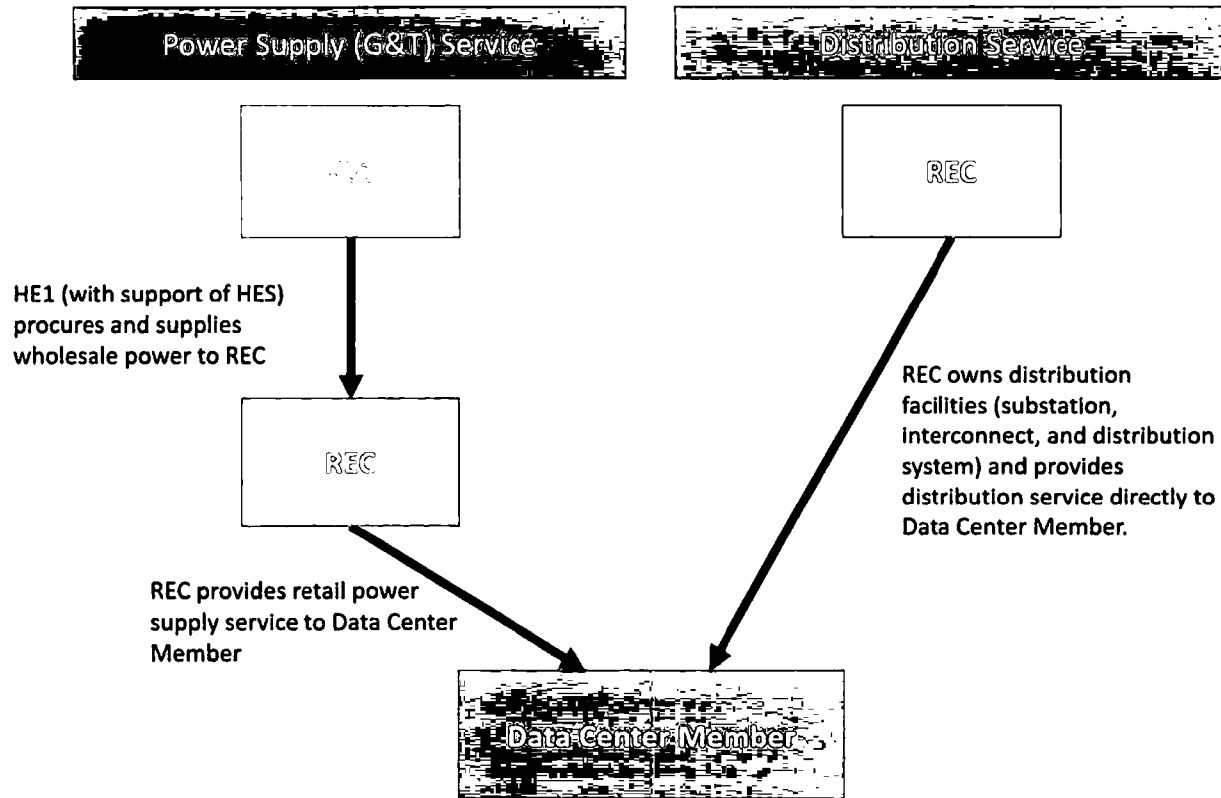


Blue-Existing entities

Green-Current Chapter 4 Affiliate Application

HEX= future Hyperscale Energy X, LLC Affiliate(s)

Proposed Power Supply Service



UMBRELLA OPERATING SERVICES AGREEMENT

between

RAPPAHANNOCK ELECTRIC COOPERATIVE

and

HYPERSCALE ENERGY SERVICES, LLC

and

SUBSIDIARY AFFILIATES OF HYPERSCALE ENERGY SERVICES, LLC

dated

[month] [date], 202_

Table of Contents

ARTICLE I. GENERAL PROVISIONS AND INITIAL SETUP	4
Section 1. General Provisions	4
Section 2. Priority of Service	5
Section 3. Funding for Setup and Initial Operations of Subsidiary and Affiliates.....	5
Section 4. Initial Setup of Subsidiary and Affiliates.....	5
Section 5. Transition from Initial Setup to Ongoing Operations	6
Section 6. Distributions of Earnings	6
ARTICLE II: SERVICES RENDERED AMONG PARTIES.....	7
Section 7. Services to be Provided from Subsidiary to Cooperative	7
Section 8. Services to be Provided from Cooperative to Subsidiary	7
Section 9. Services to be Provided from Subsidiary to Affiliates.....	7
Section 10. Services to be Provided from Affiliates to Cooperative	8
Section 11. Services to be Provided from Cooperative to Affiliates	9
Section 12. Services to be Provided from Affiliates to Subsidiary.....	9
Section 13. External Services Provided to Subsidiary and Affiliates	9
ARTICLE III: PAYMENT FOR SERVICES RENDERED AMONG PARTIES	9
Section 14. Payments from Subsidiary to Cooperative.....	9
Section 15. Payments from Cooperative to Subsidiary.....	10
Section 16. Payments from Subsidiary to Affiliates	10
Section 17. Payments from Affiliates to Cooperative.....	10
Section 18. Payments from Cooperative to Affiliates.....	10
Section 19. Payments from Affiliates to Subsidiary	10
ARTICLE IV. OTHER CONSIDERATIONS.....	10
Section 20. Trademarks	10
Section 21. Indemnity	11
Section 22. Insurance	11
Section 23. Duration of this Agreement.....	11
Section 24. Defaults	12
Section 25. Amendments	12
Section 26. Severability	12
Section 27. Independent Contractors	12
Section 28. Arm's-Length Transactions	13
Section 29. State Corporation Commission Approval Required	13

UMBRELLA OPERATING SERVICES AGREEMENT

This Umbrella Operating Services Agreement ("Agreement"), is made and entered into as of this ____th day of _____, 202__, by and between Rappahannock Electric Cooperative, a Virginia utility consumer services cooperative ("REC" or "Cooperative"), Hyperscale Energy Services, LLC ("HES" or "Subsidiary"), and the subsidiary affiliates of Hyperscale Energy Services, LLC ("Dedicated Service Affiliates" or "Affiliates"). Cooperative, Subsidiary, and Affiliates may be individually referred to as a "Party" and collectively as "Parties."

RECITALS:

1. REC is a member-owned utility cooperative providing electric delivery services to its members in twenty-two counties in Virginia.
2. REC has garnered significant interest from prominent operators and developers of large-scale data centers seeking to establish operations within its service territory.
3. REC, through HES, has established Hyperscale Energy 1 (HE1) and Hyperscale Energy 2 (HE2) as Dedicated Service Affiliates to obtain power supply associated with those members whose load is of exceptional size in REC's service territory ("Customers"). Additional Dedicated Service Affiliates will be established in the future according to business needs to meet the power supply needs of Customers. Initially, REC intends for the Dedicated Service Affiliates to make wholesale sales of such power supply to REC to permit REC to provide power supply service to Customers.
4. REC has established HES to provide certain administrative support services ("Support Services") to the Dedicated Service Affiliates to support ongoing operations and the provision of power supply.
5. On January 15, 2024, the Board of Directors of REC's primary generation and transmission provider, Old Dominion Electric Cooperative ("ODEC") affirmatively resolved not to avail itself of the offer of supply made by Subsidiary to Cooperative to supply power to two Customers specifically.
6. ODEC further resolved on June 28, 2024, not to avail itself of the offer of supply made by Subsidiary to Cooperative to supply power to an additional eleven (11) Customers.
7. Parties desire to insulate and protect Cooperative's current and future member-owners from the risk inherent in supplying power to Customer's exceptionally large power loads, as well as the risks inherent in supplying power to future Customers' exceptionally large power loads.
8. Parties aim to foster collaborative efforts, define their respective roles, and outline their mutual obligations through this Agreement to ensure seamless operations and mutual success.

9. Cooperative is agreeable to enter into an agreement with Subsidiary and Affiliates in recognition that Cooperative members, as owners of Cooperative, will benefit from the purpose and operations of Subsidiary and Affiliates.
10. Subsidiary desires that Cooperative provide general management and strategic support to Subsidiary, and the Cooperative desires to provide such management and services to Subsidiary as provided herein.
11. Affiliates desire that Subsidiary provide management and administrative support services to Affiliates, and the Subsidiary desires to provide such management and services to Affiliates as provided herein.
12. Cooperative has determined that the execution, delivery and performance of this Agreement may reasonably be expected to benefit Cooperative, directly or indirectly, and is in the best interests of Cooperative and its members.
13. Subsidiary and Affiliates have determined that the execution, delivery and performance of this Agreement may reasonably be expected to benefit Subsidiary, Affiliates, and Customers, directly or indirectly, and is in the best interests of Subsidiary, Affiliates, and Customers.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE I. GENERAL PROVISIONS AND INITIAL SETUP

Section 1. General Provisions.

Each Party does hereby hire, contract for, and retain the services of the other Party as provided in this Agreement on a non-exclusive basis, and each does hereby agree to provide services to the other in the general nature of executive management, administration, and energy supply service as hereinafter more fully set forth and specified. Cooperative shall be responsible for performing all agreed upon services for Subsidiary and shall assign and direct qualified Cooperative personnel to perform these services as mutually agreed by Cooperative and Subsidiary. Additionally, Subsidiary shall be responsible for performing all agreed upon services for Affiliates and shall assign and direct qualified Subsidiary personnel to perform these services as mutually agreed by Subsidiary and Affiliates. Affiliates shall be responsible for the provision of all agreed upon services for Cooperative and Subsidiary as mutually agreed by Cooperative and Subsidiary.

Parties understand and agree that Cooperative may procure services from third party vendors that may otherwise be performed by Subsidiary and/or Affiliates. Parties further understand and agree that Subsidiary may procure services from third party vendors that may

otherwise be able to be performed by Cooperative. Accordingly, Parties agree that Affiliates may procure services from third party vendors that may otherwise be performed by Subsidiary. In such cases, the relevant Party shall enter contractual agreements with third party vendors in accordance with this Agreement.

Section 2. Priority of Service

Parties understand and agree that Cooperative's first duty and responsibility shall be to its member-owners. Any and all services provided by Cooperative under this Agreement that are not inclusive and/or reflective of the priority to Cooperative's members, for and on behalf of Subsidiary and/or Affiliates, shall be second in priority to such first duty and responsibility of Cooperative and to the extent that such is the case, Subsidiary and Affiliates shall hold Cooperative harmless for any disruption of services from Cooperative for purposes aforesaid.

Parties understand and agree that Subsidiary may pay a fixed fee to Cooperative for office space and other facility-related needs, but in any and all cases, the Cooperative reserves the right to use its facilities as it determines appropriate.

Parties understand and agree that Affiliates may pay a fixed fee to Cooperative for office space and other facility-related needs, but in any and all cases, the Cooperative reserves the right to use its facilities as it determines appropriate.

Section 3. Funding for Setup and Initial Operations of Subsidiary and Affiliates

Cooperative acknowledges and agrees to provide funding to Subsidiary to support its initial setup and operational activities. Cooperative will provide this funding in the form of a loan pursuant to a separate agreement ("Loan Agreement") whose terms shall be mutually agreed upon by Cooperative and Subsidiary and duly approved by the Board of Directors of Cooperative. Loan funds will be utilized by Subsidiary, consistent with the terms of the Loan Agreement, for Subsidiary's establishment, development, and initial operational expenses as well as for Affiliates' establishment, development, and initial operational expenses.

Section 4. Initial Setup of Subsidiary and Affiliates

Cooperative agrees to extend, upon request from Subsidiary, staffing support to Subsidiary during its initial staffing ramp-up phase. Cooperative agrees to provide management and other labor to Subsidiary to facilitate and support its progress toward operational readiness and growth during the initial period, until such time as Subsidiary is fully staffed, and from time to time as required if and when Subsidiary's staff is not sufficient to perform the required functions. This includes providing guidance, expertise, and managerial assistance across pertinent operational domains, as well as administrative functions, procedural guidance, and other necessary resources for ensuring a smooth transition and efficient functioning of Subsidiary.

Parties understand and agree that Cooperative will incur certain initial setup costs associated with the initial establishment and development of operational readiness of Subsidiary and Affiliates. These costs encompass expenditures directly related to legal, administrative,

advisory, and other general setup procedures necessary for the formation and initial operations of Subsidiary and Affiliates, including but not limited to the establishment of United States Internal Revenue Service Employer Identification Numbers, development of organizing documents (e.g., Articles of Incorporation/Organization), and application for membership to PJM Interconnection, LLC ("PJM"). Cooperative shall closely track these costs through the use of an intercompany receivable account. Wherever appropriate, Cooperative shall seek timely reimbursement of these costs from Customers whose electric service is supported by the affiliate structure described in this Operating Services Agreement.

In consideration of services provided by Subsidiary to establish Affiliates, Affiliates agree to compensate Subsidiary for any costs incurred by Subsidiary in connection with the setup, development, and initial operation of Affiliates.

Section 5. Transition from Initial Setup to Ongoing Operations

Once initial setup is complete and Customers begin to take permanent electric service from Cooperative, Cooperative shall invoice Subsidiary in a timely manner for ongoing expenses incurred by Cooperative to support Subsidiary and Affiliates.

Parties understand and agree that Subsidiary is solely responsible for the funding, establishment, and initial operational setup of Affiliates. Subsidiary shall procure and manage the necessary funding, resources, and operational requirements essential for the establishment, development, and functional readiness of Affiliates, including but not limited to, financial resources, regulatory compliance, and infrastructure setup as may be required to provide power supply services to Customers.

Section 6. Distributions of Earnings

The Board of Directors of Subsidiary retains exclusive authority to determine whether earnings are to be distributed to Cooperative. Any decision regarding the distribution of earnings shall be made by the Board of Directors of Subsidiary in accordance with its fiduciary duties and strategic considerations.

The Board of Managers of each Affiliate retains exclusive authority to determine whether the relevant Affiliate's earnings are to be distributed to Subsidiary. Any decision regarding the distribution of earnings shall be made by each individual Affiliate's Board of Managers in accordance with its fiduciary duties and strategic considerations.

The Distribution of earnings from Affiliate(s) to Subsidiary as well as the distribution of earnings from Subsidiary to Cooperative is discretionary and subject to the evaluation and approval of the Board of Managers of Affiliate(s) and Board of Directors of Subsidiary, respectively.

Parties agree that Affiliates' Boards of Managers and Subsidiary's Board of Directors shall consider various factors such as financial performance, strategic objectives, and operational needs in making determinations related to earnings distribution. Parties further agree to collaboratively develop a comprehensive framework that outlines the criteria, considerations, and processes for

deciding when to distribute earnings from Subsidiary to Cooperative and from Affiliate(s) to Subsidiary. Such comprehensive framework shall duly align with the bylaws and/or Articles of Organization of each Party and shall consider the financial impact on Cooperative.

ARTICLE II: SERVICES RENDERED AMONG PARTIES

Section 7. Services to be Provided from Subsidiary to Cooperative

Parties understand and agree that Subsidiary is formed for the purpose of establishing and maintaining the Affiliates and providing the services pursuant to Section 9 below. Subsidiary shall submit to Cooperative an invoice for one hundred percent of the fixed operating costs and administration fee(s) of Subsidiary and Affiliates. Subsidiary shall submit such invoice to Cooperative on a monthly basis. Following initial setup of the Subsidiary and Affiliates, Parties shall agree upon the appropriate manner to calculate such fixed costs. Parties shall thereafter review such calculation as needed, and no less than annually, based on the number of Customers for whom Affiliates provide power supply to Cooperative. In addition, Parties understand and agree that the allocation of expenses or charges from Subsidiary to Cooperative may be adjusted from time to time due to other factors, including but not limited to decision of the State Corporation Commission regarding the Cooperative's rates.

Section 8. Services to be Provided from Cooperative to Subsidiary

Cooperative shall furnish professional, qualified persons to provide executive and strategic management to Subsidiary. Specifically, Cooperative will furnish a professional, qualified individual to perform the roles of President and Chief Executive Officer, Executive Vice President and General Manager, and any other executive positions as mutually agreed upon by Cooperative and Subsidiary. Parties agree that said persons may, if appointed and confirmed by the Board of Directors of Subsidiary, serve as its officers with all customary rights, privileges, and authorities commensurate with such positions as described in Subsidiary's Articles of Organization and applicable internal policies; limited, however, to those functions as the Board of Directors of Subsidiary may from time to time determine in its sole discretion. Such officers shall be responsible and accountable for the management, administration, and operations of Subsidiary. The officer(s) of Subsidiary shall report to the Board of Directors of Subsidiary on all matters relative to the management, administration, and operations of Subsidiary.

Notwithstanding anything to the contrary set forth in this Agreement, Cooperative may, upon giving the Board of Directors of Subsidiary not less than thirty (30) days prior written notice, withdraw the services of such persons acting as officers of Subsidiary.

Section 9. Services to be Provided from Subsidiary to Affiliates

Parties understand and agree that Subsidiary will furnish professional, qualified labor to facilitate and coordinate the participation of Affiliates in the regional energy markets managed by PJM. These energy markets may include, among others, the real-time energy market and day ahead energy market.

Parties understand and agree that Subsidiary will furnish to Affiliates professional, qualified labor to develop and demonstrate compliance with any and all requirements set forth by PJM, including those requirements for PJM membership, PJM market participation, and any regulatory, statutory, or other such requirement as may be required from time to time for Affiliates to procure energy to support Cooperative's provision of electric power supply to Customers.

Parties understand and agree that Subsidiary will furnish to Affiliates professional, qualified labor to set up any necessary electronic data interchanges as well as all other system set-up work necessary to interact with PJM, Cooperative, and Customers.

Parties understand and agree that Parties will work with PJM as needed to ensure that Affiliates have adequate credit and collateral to meet any and all applicable requirements set forth by PJM to satisfactorily perform the role of load serving entity for Customers as well as for Affiliates to supply electric power to Cooperative to allow Cooperative to meet the electric power supply needs of Customers. Parties further understand and agree that Cooperative will pursue and maintain any and all necessary arrangements or formal agreements with relevant transmission providers.

Parties understand and agree that Subsidiary will perform as an agent for Affiliates, transacting within the PJM markets and with other parties as appropriate to procure power supply necessary to allow Cooperative to meet the electric power supply needs of Customers. Further, Subsidiary will, on behalf of Affiliates, conduct daily transactions and bid Customers' load forecasts into the appropriate energy markets and settle real-time load that exceeds or is below that schedule in the real-time markets, pursuant to any Power Supply Agreements that may be executed between Cooperative and Customers.

Parties understand and agree that Subsidiary will perform PJM market settlement functions for Affiliates, ensuring that the bills received from PJM are accurate and that those bills are paid in a timely manner. Affiliates will bill Cooperative, based on the schedule agreed upon by Affiliates and Cooperative, and will perform or contract for any accounting services associated with those receivables. Subsidiary will monitor credit requirements on a daily basis using PJM's electronic tools and initiate adjustments as needed.

Parties understand and agree that all of the functions described herein will be performed in alignment with the risk management policies of Subsidiary and Affiliates, as may be approved and updated from time to time by the Board of Directors of Subsidiary.

Section 10. Services to be Provided from Affiliates to Cooperative

Parties understand and agree that Affiliates shall provide certain energy services and wholesale power supply ("Energy Services") to Cooperative. Energy Services includes all services related to the provision of electric power supply from Affiliates to Cooperative, including power supply billing, load settlement, and the provision of electric power itself.

Affiliates shall sell and deliver to Cooperative and Cooperative shall purchase and receive from Affiliate all electric power supply that the Cooperative shall require for delivery of electric power by Cooperative to certain large-scale members of Cooperative. Affiliates shall supply power

to Cooperative to meet the specific needs of only those Cooperative members for whom ODEC affirmatively resolved not to avail itself of the offer of supply made by Subsidiary to Cooperative to supply power, as described in this Operating Services Agreement.

Parties understand and agree that Affiliates' provision of wholesale power supply to Cooperative shall not conflict or otherwise interfere with the Wholesale Power Contract between Cooperative and ODEC. Accordingly, Affiliates shall not provide electric power to Cooperative in any instance besides those in which electric power is required to support the power supply needs of Cooperative members for whom ODEC affirmatively resolved not to avail itself of the offer of supply made by Subsidiary to Cooperative to supply power.

Parties understand and agree that Cooperative intends to execute a separate and distinct Wholesale Power Contract with each current and future Affiliate consistent with the form included as Exhibit 1 to this Agreement. Each Wholesale Power Contract between Cooperative and Affiliate shall facilitate Cooperative's ability to meet the power supply needs of specific Customer(s), as defined by and described in the Power Supply Agreement(s) executed between Cooperative and Customer(s).

Section 11. Services to be Provided from Cooperative to Affiliates

Parties understand and agree that Cooperative shall provide certain Customer information as well as credit and collateral support (as collected by Cooperative from Customer) to Subsidiary and Affiliates for the purpose of Affiliates' procurement of electric power supply. Cooperative shall also transmit electric load and usage information as well as load forecasts to Subsidiary and Affiliates as needed to support billing functions and the procurement of power supply.

Section 12. Services to be Provided from Affiliates to Subsidiary

[Reserved]

Section 13. External Services Provided to Subsidiary and Affiliates

Under the direction and supervision of the officers of Subsidiary, and subject to the limitations set forth in this Agreement, Subsidiary agrees to procure through external third party vendors such personnel and equipment support required to perform back-office and general management functions including accounting, information technology, finance, compliance, human resources, and audit services for Subsidiary and Affiliates. This shall include services required to prepare and complete financial statements, achieve credit ratings, execute payroll, and all other related services that may be required by Subsidiary and Affiliates.

ARTICLE III: PAYMENT FOR SERVICES RENDERED AMONG PARTIES

Section 14. Payments from Subsidiary to Cooperative

Parties understand and agree that Subsidiary shall repay Cooperative any and all funds loaned to it by Cooperative for the purpose of startup and initial operations. Article I of this

Operating Services Agreement further describes the nature of the loan between Cooperative and Subsidiary.

Parties also agree that Subsidiary shall remit to Cooperative payment for any and all services provided, including the executive and strategic management services described in Article II of this Operating Services Agreement.

Section 15. Payments from Cooperative to Subsidiary

Consistent with Section 7 of this Agreement, Cooperative shall remit to Subsidiary in a timely manner payment for one hundred percent of the fixed operating costs and fee (s) for administration of Subsidiary and Affiliates.

Section 16. Payments from Subsidiary to Affiliates

[Reserved]

Section 17. Payments from Affiliates to Cooperative

[Reserved]

Section 18. Payments from Cooperative to Affiliates

Parties understand and agree that Cooperative shall remit to Affiliates in a timely manner, and in accordance with the Power Supply Contract(s) between Cooperative and Affiliate(s), payments for Energy Services.

Section 19. Payments from Affiliates to Subsidiary

Parties understand and agree that Affiliates shall remit to Subsidiary in a timely manner, all payments due for the provision of services from Subsidiary to Affiliate as described in Article 1 of this Operating Services Agreement.

ARTICLE IV. OTHER CONSIDERATIONS

Section 20. Trademarks

Parties understand and agree that Cooperative is the owner of all right, title and interest in and to the Hyperscale Energy Services, Hyperscale Energy 1, and any certain other brands and marks (collectively, "Marks") as may be developed by Cooperative and Subsidiary. Each Party may employ brands, service marks and trademarks to differentiate and identify the services offered by Parties. Subsidiary and Affiliates acknowledge and agree that all goodwill arising out of its use of the brands, service marks and trademarks of the Cooperative, as permitted hereunder, shall inure to the sole benefit of the Cooperative.

Parties acknowledge and agree that: (1) Cooperative maintains the right to adopt and require Subsidiaries to comply with, quality control measures related to the Subsidiaries' and

Affiliates' use of the Marks; (2) for Cooperative, as it deems appropriate to ensure compliance with such measures, to audit, inspect and otherwise review Subsidiaries' and Affiliates' use of the Marks; and (3) that Subsidiaries and Affiliates shall take actions as may be necessary to assist Cooperative in securing and maintaining its rights, including without limitation, registration of the trademarks; in each case, as further set forth in a Trademark License Agreement that shall be entered into by the Parties.

Parties further understand and agree that the use of Cooperative's Marks by Parties shall not be misleading and shall be accompanied by a disclaimer that clearly and conspicuously discloses that Subsidiaries and Affiliates are not the same company as Cooperative. Per 20 VAC 5-203-40, such disclaimers shall not be required on company vehicles, clothing, trinkets, writing instruments, or similar promotional materials.

Section 21. Indemnity

Parties agree to indemnify and hold harmless Cooperative, its agents, officers, board members, employees or members from and against any loss, cost, charges, damages, liability, or expense (including reasonable attorney fees) or other similar liability which arises from Subsidiaries' actions, omissions, or breach of this Agreement and to which Cooperative may be subject to while Cooperative, its agents, and officials shall have been acting in the discharge of its obligations under the provisions of this Agreement. This provision shall survive the termination of this Agreement.

Section 22. Insurance

Parties shall furnish each other appropriate certificates of insurance evidencing coverage on behalf of each party against the risks of liability from accidental death or other personal injury and/or property damages as well as proof of worker's compensation or self-insurance. Parties understand and agree that in certain cases, Subsidiary and/or Affiliates may be a named insured party on certain Cooperative insurance policies and relevant Subsidiary or Affiliate will be responsible for remitting its insurance premiums to Cooperative.

Section 23. Duration of this Agreement

Parties agree that this Agreement shall become effective upon approval by appropriate regulatory agencies (as described further in this Agreement), including the Virginia State Corporation Commission, and shall continue in effect thereafter on a year to year basis as may be amended in writing by the parties from time to time, or until terminated or cancelled by any Party as provided herein. Except as provided otherwise in this Agreement, the Cooperative may terminate this Agreement by giving the other Parties written notice of cancellation at least sixty (60) days prior to the effective date of termination. Further, except as provided otherwise in this Agreement, Subsidiary or Affiliates may terminate this Agreement by giving the other Parties written notice of cancellation at least three (3) years prior to the effective date of termination. All charges incurred as of the date of termination shall be charged and invoiced to the responsible Party. All amounts due to the other Parties for purposes described under this Agreement shall be paid prior to the final determination date. Notwithstanding the foregoing, this Agreement shall be terminable upon Cooperative after giving at least thirty (30) days prior written notice to the Board

of Directors of Subsidiary should the officers or their replacements, while acting as officers of the Subsidiary and Affiliates pursuant to this Agreement, be placed in a conflict of interest position in respect to the primary duties and responsibilities owed by them to Cooperative; such written notice shall state the basis of the conflict of interest so that efforts may be undertaken to abate such conflict.

Section 24. Defaults

If Parties hereto shall be in default or breach under the terms and conditions of this Agreement, the other party shall give the defaulting party written notice of said default and the defaulting party shall have thirty (30) days in which to cure or correct said default. A failure by the defaulting Party to cure or correct the default or beach shall constitute a breach of this Agreement and the non-defaulting or non-breaching Party may elect to terminate this Agreement at any time following the said thirty (30) day notification of default or breach, in addition to its exercising such other legal remedies as may be available at law or in equity. Failure by the non-defaulting or non-breaching Party to declare the other Party or Parties in default or breach, when such conditions exist as to constitute default or breach, shall not act as a waiver of the non-defaulting or non-breaching Party right to declare the other Party or Parties in default or beach on subsequent occasions.

Section 25. Amendments

This Agreement may be amended from time to time by the parties hereto, provided that the said amendment shall be agreed upon by the Board of Directors of Cooperative and the Board of Directors of Subsidiary; shall be in writing, and shall be subscribed by the Parties to be bound. All amendments shall be attached to this Agreement or to execute counterparts thereof as addenda hereto, and shall be subject to approval by the Virginia State Corporation Commission, as applicable.

Parties understand and agree that nothing in this Operating Services Agreement shall be deemed or construed to preclude or prohibit Subsidiary or Affiliates from entering into separate distinct agreements with and among themselves provided that said agreements between Subsidiary and Affiliates do not infringe upon or otherwise conflict with any provision contained in this Operating Services Agreement.

Section 26. Severability

If any term or provision of this Agreement is deemed invalid or unenforceable, then the remaining terms and conditions under this Agreement will not be affected thereby, and each such remaining term and provision will be deemed valid and enforced to the fullest extent permitted by law.

Section 27. Independent Contractors

This Agreement establishes the relationship of independent contractors between the parties; nothing herein shall be deemed to create between the parties the relationship of partners,

employer and employee, joint ventures or any other relationship except that of independent contractors for the purposes described herein. Subsidiary and Affiliates are free to perform similar or other services for members of the general public other than Cooperative, and to independently contract with companies other than Cooperative, subject to the terms of this Agreement. Cooperative shall not direct or control the method by which Subsidiaries perform services. Subsidiaries, through their principals, employees and/or contractors, further covenants and agrees that during the term of this Agreement, Parties will observe and comply with all applicable laws and regulations of the United States, the Commonwealth of Virginia or any political subdivision of either of them.

Section 28. Arm's-Length Transactions

The Parties understand and agree they are entering into this Agreement, and that the Transactions contemplated by this Agreement are, on an arm's-length basis, on commercially reasonable terms and on terms no less favorable than would be obtained in a comparable arm's-length transaction with an unrelated third party.

Section 29. State Corporation Commission Approval Required

This Agreement shall not become effective until it has been filed with and approved by the Virginia State Corporation Commission in accordance with §56-77 et seq. of the Code of Virginia. Further, both Cooperative and Subsidiaries understand and agree that the Virginia State Corporation Commission shall have the right and authority to conduct ongoing review and supervision, including but not limited to auditing the records of both parties, of the relationship between Parties. A copy of said approval shall be affixed to this Agreement. The approval required under this section shall include any interim authority to enter into this Agreement that may be granted by the Virginia State Corporation Commission.

***[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK; AUTHORIZED
SIGNATURES TO FOLLOW]***

IN WITNESS WHEREOF, the Parties hereto have subscribed their names and placed their seals by their officers duly authorized so to do on two or more counterparts, each of which so executed shall be deemed to be an original, and all shall constitute but one and the same instrument.

RAPPAHANNOCK ELECTRIC COOPERATIVE

ATTEST:

By: _____
Chairman, Board of Directors

By: SECRETARY

HYPERSCALE ENERGY SERVICES, LLC

ATTEST

By: _____
Chairman, Board of Directors

By: SECRETARY

[AFFILIATE]

ATTEST:

By: _____
Chairman, Board of Directors

By: SECRETARY

CONFIDENTIAL Exhibit 1 to the OSA

**Please see the Confidential Version of the
Application**

CONFIDENTIAL Attachment C

**Please see the Confidential Version of the
Application**

TRADEMARK LICENSE AGREEMENT

THIS TRADEMARK LICENSE AGREEMENT (the "Agreement") is made as of April __, 2024 (the "Effective Date") by and between Rappahannock Electric Cooperative, a Virginia corporation, located at 247 Industrial Court, Fredericksburg, Virginia 22408 ("Licensor"), and Hyperscale Energy Services, LLC, a Virginia limited liability company, located at 247 Industrial Court, Fredericksburg, Virginia 22408 ("Licensee"), (collectively, the "Parties"), hereby provides:

RECITALS:

A. Licensor owns the registered and unregistered common law trademarks and service marks set forth on Exhibit A and as may be provided to Licensee by Licensor in writing from time to time (collectively, the "Marks") for use in connection with the services for each of the respective Marks as set forth on Exhibit A (the "Services");

B. Licensor desires to continue to maintain and protect the value of the Marks; and

C. Licensee desires to use the Marks in connection with the Services and Licensor is willing to grant Licensee a fully paid up, nontransferable, nonexclusive license to use the Marks in connection with the Services under the terms and conditions in this Agreement.

D. Licensee desires to grant sublicenses to wholly-owned subsidiaries of Licensee.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants contained herein, the above recitals which are hereby incorporated into this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Grant of License for the Marks.** Licensor hereby grants to Licensee a royalty-free, non-exclusive, limited license to use the Marks solely in connection with providing, selling, marketing and promoting the Services during the Term of this Agreement, subject to certain restrictions as defined herein. For the avoidance of doubt, such rights include the right to use any Marks in connection with domain names, provided that any such right may not be sublicensed to any third party without the prior written consent of Licensor. Any goodwill arising from Licensee's use of the Marks shall inure solely to the benefit of Licensor.

2. **Use Restrictions.** Licensee shall not, directly or indirectly:

2.1 modify any Marks or use any unapproved or modified forms of the Marks;

2.2 use any trademarks, service marks or other intellectual property that is confusingly or substantially similar to the Marks, except as expressly permitted under this Agreement, nor will Licensee do or cause to be done any other act or thing to contest, challenge, or in any way dilute, infringe, damage, or impair any part of Licensor's right, title and interest in

and to any Marks, including without limitation with respect to any application to register any Marks with any governmental authority or private entity (including domain name registrars);

2.3 file any application for trademark registration in the United States Patent and Trademark Office, any state office or authority for registration of intellectual property, or any foreign intellectual property office or authority for any Marks or for intellectual property similar thereto;

2.4 fragment or merge the Marks with any trade name (except with respect to the trade name "Hyperscale Energy Services, LLC") or other trademarks, service marks or other indicia or origin or source without the prior approval of Licensor;

2.5 use the Marks with any prefix, suffix or other modifying words, terms, designs or symbols (except for other Marks licensed to Licensee under this Agreement) without the prior approval of Licensor; and/or

2.6 use any Marks in any way that may reasonably be seen to be misleading or deceptive, or to impair, jeopardize or dilute the Licensor's proprietary interest in, or the validity of, the Marks, or that may bring any of the Marks into disrepute.

3. Sublicensing

3.1 Sublicenses. Licensee may grant sublicenses without prior approval of Licensor to wholly-owned subsidiaries of Licensee ("Sublicensees"). Licensee shall have no right to sublicense any additional rights or obligations of Licensee under this Agreement without the prior written consent of Licensor, in its sole discretion. Any approved sublicense hereunder shall be subject to the express limitations set forth in Section 2 and this Section 3.

3.2 Scope of Sublicense. No permitted sublicense shall exceed the scope of rights granted to Licensee hereunder. Licensee shall require all sublicenses approved under Section 3.1 (each a "Sublicense") to be in writing and to: (i) include an agreement by the approved sublicensee ("Sublicensee") to be bound by the terms and conditions of this Agreement; (ii) include Licensor's right to enforce its rights in the Marks; (iii) provide that the term of the sublicense thereunder shall not extend beyond the Term; and (iv) indicate that Licensor is a third party beneficiary and entitled to enforce the terms and conditions of the sublicense. Licensee shall enforce all sublicenses at its cost and shall be responsible for the acts and omissions of its Sublicensees with respect to such Sublicenses. In the event of the termination or expiration of this Agreement, all sublicense rights shall terminate effective as of the termination or expiration of this Agreement.

4. Licensor's Right to Modify or Discontinue Marks. Licensor has the sole discretion to modify the Marks or to discontinue their use, or to adopt and use additional trade or service marks for use by Licensee and its Sublicensees, in which case such additional trade or service marks shall be deemed Marks subject to the terms and conditions of this Agreement. Licensee and its Sublicensees shall comply with Licensor's directions regarding such modification or discontinuation, within thirty (30) days after receiving written notice from Licensor, unless otherwise agreed in writing by the Parties. Licensee and its Sublicensees are solely responsible for any necessary expenses in changing signage, advertising and marketing materials in any media, and

Licensor will not be obligated to reimburse Licensee or any of its Sublicensees for any loss of revenue attributable to any modified or substitute trademark or services mark.

5. Quality Control.

5.1 Licensor shall have the right to maintain and ensure implementation of standards of quality for use of the Marks by Licensee and any Sublicensee as further described in Exhibit B, attached hereto and made a part hereof, as may be supplemented or amended by Licensor from time to time in its sole discretion (collectively the "Quality Control Guidelines"). Licensee agrees that Licensee's and any Sublicensee's use of the Marks shall conform to the Quality Control Guidelines in all material respects. In the course of Licensor's performance of its obligations under the terms of this Agreement, and in order to protect and maintain its standards, Licensor may review and monitor use of the Marks by Licensee and any Sublicensee on a continuing basis during the Term of this Agreement.

5.2 Licensee acknowledges and agrees that all material used in Licensee's business that bears, using or incorporating any Marks, including, but not limited to, all goods, packaging, bags, advertisements, promotional materials, brochures, flyers, signage, stationery, and Licensee.com, shall use the Marks in compliance with the Quality Control Guidelines. Licensee further acknowledges and agrees that the use of the Marks by Licensee and its Sublicensees shall not be misleading, and shall be accompanied by a disclaimer that clearly and conspicuously discloses that Licensee and its Sublicensees are not the same company as Licensor, provided that such disclaimers shall not be required on Licensee or Sublicensee company vehicles, clothing, trinkets, writing instruments, or similar promotional materials, per 20 VAC 5-203-40.

5.3 Upon request by Licensor, Licensee agrees to promptly furnish to Licensor, free of charge, a representative sample of all goods, packaging, bags, advertisements, promotional materials, brochures, flyers, signage, stationery and pages from any website or social media account used, displayed or distributed by Licensee in connection with its use of the Marks for Licensor's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Licensee represents and warrants that Licensee's goods, packaging, bags, advertisements, promotional materials, brochures, flyers, signage, stationery and any website or social media account bearing, using or incorporating the Marks will be substantially identical to, and of no lesser quality than the samples submitted to Licensor.

5.4 Upon notice from Licensor or its agents (a "Violation Notice") and without limiting Licensor's other rights under this Agreement, Licensee shall take such steps as may be necessary to immediately remove or cease use of materials that are in violation of this Section 5, and shall not resume use of any such materials until such violation (whether with respect to quality, misuse of Marks, or other deficiencies detected during any monitoring, review or inspection of any actual or proposed uses of the Marks by Licensee) has been corrected and is in full compliance with the terms and conditions of this Section 5 and the Agreement.

6. Maintenance of Marks. Licensor shall, at its sole expense, use commercially reasonable efforts to maintain all registrations of the Marks, including all domain names, if any are in effect as of the Effective Date. Licensor may, but shall have no obligation to, register any Marks with any governmental authority, in its sole discretion. Each party shall keep the other informed of

any challenges or objections to any use of the Marks by any other individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity ("Person"), including without limitation with respect to the ownership or validity of any Marks or any registration or application for registration thereof. The parties agree to cooperate in good faith in connection with the defense of any such dispute. Licensor shall give Licensee at least sixty (60) days' prior written notice of its intent to no longer maintain Marks, and at Licensee's request, will allow Licensee and its Sublicensees to do so in Licensee's name and at Licensee's expense.

7. **Term of License.** The Initial Term of this Agreement shall be ten (10) years (the "Initial Term"), commencing on the Effective Date of this Agreement. This Agreement shall automatically renew for additional one (1) year terms (the "Renewal Term"), unless either party gives written notice of its intent not to renew this Agreement at least thirty (30) days prior to the end of the Initial Term or any Renewal Term (collectively, the "Term" of the Agreement).

8. **Termination.**

8.1 Either Party may terminate this Agreement and the license granted hereby upon a material breach of the Agreement by the other Party that is not cured within thirty (30) days after written notice thereof.

8.2 Upon the expiration or termination of this Agreement in any manner provided herein, all rights granted hereunder to Licensee shall terminate, and Licensee and all Sublicensees shall cease and desist from all use of the Marks and shall at Licensee's sole option either destroy or deliver to Licensor, or to its duly authorized representative, all materials and papers on which any Marks appears including, without limitation, all signs, advertising and promotional materials, displays, stationary forms and any other articles which bear or incorporate any Marks, along with a notarized declaration attesting to the same.

8.3 Notwithstanding any termination or expiration of this Agreement for any reason, the obligations and acknowledgments under the Termination, Ownership of Marks, Independent Contractor, Disclaimer, Indemnification, Governing Law, Binding Effect, Confidentiality and Miscellaneous sections of this Agreement shall survive any termination or expiration of this Agreement.

9. **No Transfer of Rights; Infringement.** Nothing in this agreement shall be construed to give Licensee any right, title or interest in and to the Marks and Licensee nor any of its Sublicensees shall not in any manner represent or warrant that it has any ownership or rights in any Marks other than the rights expressly granted herein. Licensee will promptly advise Licensor of any dilution, infringement, damage or impairment of any Marks conducted by a third party. Licensee agrees, without remuneration, to execute any documents deemed reasonably necessary by Licensor or its counsel to obtain registration of or to enforce, protect and defend the Marks or to maintain the Marks continued validity. Licensee and its Sublicensees shall provide Licensor with all reasonable cooperation to assist each other in the investigation and prosecution of any infringement, dilution, or unfair competition actions involving the Marks. All rights not specifically granted hereunder are reserved to Licensor.

10. **Disclaimer.** Licensors make no representations or warranties, expressed or implied, with respect to the Marks or its rights therein, except as may be expressly set forth in this Agreement.

11. **Indemnification.**

11.1 **By Licensor.** Licensor shall indemnify, defend, and hold harmless Licensee and its Sublicensees, affiliates, officers, directors, employees, agents, successors, and assigns from and against all losses arising out of or in connection with any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") relating to any actual or alleged infringement, dilution, or other violation of any intellectual property or other personal or proprietary rights of any Person resulting from the use of the Marks by Licensor or any of its affiliates.

11.2 **By Licensee.** Licensee shall indemnify, defend, and hold harmless Licensor and its officers, directors, employees, agents, successors, and assigns (each, a "**Licensor Indemnified Party**") from and against all losses arising out of or in connection with any Third-Party Claim relating to any actual or alleged: (a) breach or violation by Licensee or a Sublicensee of the Agreement, or (b) infringement, dilution, or other violation of any intellectual property rights of any Person resulting from Licensee's or a Sublicensee's use of the Marks, except to the extent any such Third-Party Claim relates to the use of the Marks in accordance with this Agreement or is otherwise covered by Licensor's indemnity obligations in Section 11.1.

12. **Independent Contractor.** It is understood and agreed by the Parties hereto that this Agreement does not create a fiduciary relationship between the Parties, that Licensee is an independent contractor, and that nothing in this Agreement is intended to designate either party as an agent, legal representative, subsidiary, joint venturer, affiliate, franchisee, partner, employee or servant of the other. It is understood and agreed by both Parties hereto that neither party will have authority to contract for or bind the other party in any manner whatsoever, nothing in this Agreement authorizes either party to make any contract, agreement, warranty or representation on other party's behalf or to incur any debt or other obligation in the other party's name.

13. **Notices.** Any notices required or permitted to be given under this Agreement shall be deemed sufficiently given if mailed by registered or certified mail, postage prepaid, addressed to the signatory below (or other representative, as designated in writing) of the Party to be notified at this address shown in the preamble to this Agreement, or at such other address as may be furnished in writing to the notifying Party.

14. **Assignment and Transfer.** The Parties hereto acknowledge and agree that Licensee shall not sell, assign, transfer, convey, give away, directly or indirectly, including by merger, change of control, or by other operation of law, any direct or indirect interest in this Agreement or the license granted hereby without: (i) the prior written consent of Licensor, and (ii) the execution of a written License Agreement by Licensor and Licensee's assignee. Any purported assignment or transfer, by operation of law or otherwise, not having met the above conditions, shall be null and void and shall constitute a material breach of this Agreement.

15. **Governing Law.** This Agreement shall be interpreted in accordance with the laws of the Commonwealth of Virginia, notwithstanding its choice of law provisions. The

parties hereto irrevocably consent to the jurisdiction of the United States District Court for the Eastern District of Virginia, Richmond Division, to the extent that such court has subject matter jurisdiction, or, alternatively to the Circuit Court for the City of Richmond, Virginia for any claims or causes of action arising out of or relating to this Agreement and waive any objection they may have to either the jurisdiction or venue of such courts.

16. Confidentiality. "Confidential Information" means any information disclosed by either Party (each a "Disclosing Party") to the other Party (the "Receiving Party"), either directly or indirectly, relating to the Disclosing Party's business, that is identified or marked as proprietary or confidential, or under the circumstances would reasonably be considered to be proprietary or confidential. Confidential Information includes, but is not limited to, the terms and conditions of this Agreement. Each Party agrees to take all reasonable precautions to maintain the secrecy of all Confidential Information, but in no event shall such precautions be less than the precautions either Party takes to protect its own confidential information. The foregoing confidentiality obligations will not apply to information which (a) is known to the Receiving Party at the time of its receipt of such information, as evidenced by contemporaneous written records; (b) is or subsequently becomes properly in the public domain through no fault of the Receiving Party; (c) is subsequently disclosed to the Receiving Party by a third party who may lawfully do so without violation of any confidentiality agreement; (d) is independently developed by the Receiving Party without use of or reference to any of the Confidential Information, as evidenced by contemporaneous written records; or (e) is required to be disclosed to governmental agencies or entities, provided that the Receiving Party will use its best efforts to provide the Disclosing Party with adequate and prompt notice to permit the Disclosing Party to attempt to obtain a protective order restricting disclosure of such information

17. Miscellaneous. This Agreement may not be modified or amended except in writing signed by all of the parties hereto. If any part or portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable for any cause or reason whatsoever, such holding shall not affect the valid and enforceable parts or portions of this Agreement, all of which shall remain in full force and effect, enforceable against the party to be charged, as if such invalid or unenforceable parts or portions hereof had never been included herein. The sections and captions contained herein are for convenience of reference only and shall not influence the construction or interpretation of this Agreement. The failure of Licensor to insist upon the strict performance by Licensee of each and every covenant or agreement of Licensee contained herein shall not be deemed a waiver of the right of Licensor to insist upon such strict performance and shall not establish a course of dealing as between Licensor and Licensee at variance with the terms hereof. This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter hereof and supersedes all prior written and oral agreements, proposals, promises and representations of the parties respecting the subject matter hereof agreed to or signed by the parties contemporaneously hereto. This Agreement shall be binding upon and shall inure to the benefit of each of the parties, their heirs, personal representatives, affiliates, successors and assigns. This Agreement may be executed in any number of counterparts and by different parties to this Agreement, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

[Signatures on the following page]

IN WITNESS WHEREOF, this Agreement has been executed by each of the Parties.

LICENSOR:

Rappahannock Electric Cooperative, a Virginia corporation

By: John D. Hewa
Its: Chief Executive Officer

LICENSEE:

Hyperscale Energy Services, LLC, a Virginia limited liability company

By:
Its:

EXHIBIT A

The Marks


Mark	U.S. Application / Registration Number (if applicable)	Services
HYPERSCALE ENERGY	98150579	Retail electricity provider services, namely, providing a service that allows customers to purchase energy, namely, electricity and renewable energy; providing customers with energy usage management information regarding energy pricing and cost management
	98150577	Retail electricity provider services, namely, providing a service that allows customers to purchase energy, namely, electricity and renewable energy; providing customers with energy usage management information regarding energy pricing and cost management
HYPERSCALE ENERGY SERVICES	N/A	Retail electricity provider services, namely, providing a service that allows customers to purchase energy, namely, electricity and renewable energy; providing customers with energy usage management information regarding energy pricing and cost management

EXHIBIT B

QUALITY CONTROL GUIDELINES

The Marks are graphic symbols that may be used only by approved licensees of Licensor. Licensee shall not use the Marks in any manner that would reflect adversely upon Licensor or the Marks. The following Quality Control Guidelines contain a discussion of the Marks and an explanation of how Licensor will review use of the Marks. These Quality Control Guidelines supplement the terms of the Agreement. The following Quality Control Guidelines must be closely followed in order to protect the integrity of the Marks.

Using the Marks.

- The symbol "SM" (the "Symbol") must be placed next to the last letter of the last word of the Marks. An example is shown below:

HYPERSCALE ENERGYSM



HYPERSCALE ENERGY SERVICESSM

The Symbol must be displayed in plain text without stylization or in association with a design element. Such Symbol should be used with the Marks wherever the Marks are used in a prominent manner and a least once per page of text when a Mark is used in text.

- Licensee shall display the Marks in the form, color, and manner prescribed by Licensor on all material used in Licensee's business that bears the Marks including, but not limited to, all goods, packaging, bags, advertisements, promotional materials, brochures, flyers, signage, stationery and Internet sites.
- Licensee may not abbreviate the Marks.
- Licensee may not use any Mark as part of the legal name of Licensee (except with respect to the trade name "Hyperscale Energy Services, LLC," Licensee's subsidiaries or of corporate entities associated with Licensee without the express written permission of Licensor.
- Licensee may not use any Marks as a possessive noun.
- The Marks may not be used in any way other than as specified in these Quality Control Guidelines, or as otherwise approved in writing by Licensor in its sole discretion. The Marks may not be modified in any way.
- Licensee's use of the Marks shall not be misleading, and shall be accompanied by a disclaimer that clearly and conspicuously discloses that Licensee are not the same

company as Licensor, provided that such disclaimers shall not be required on Licensee company vehicles, clothing, trinkets, writing instruments, or similar promotional materials, per 20 VAC 5-203-40.

Licensor's Review of Mark Use.

In addition to Licensor's rights to audit, inspect and review Licensee's use of the Marks as set forth in the Agreement, Licensee may send the relevant items to Licensor's representative listed within the Notices section of the Agreement if Licensee wishes to have Licensor review any proposed use of the Marks in advance of publication.

Questions.

Licensee may contact Licensor's representative listed within the Notices section of the Agreement if Licensee has questions about using the Marks.