

ORIGINAL

**STANDARD FIXED PRICE ATTACHMENTS**

**Attachment A1: Product and Rate**

Customer: **Dana Point Condominium Association**  
Offer Expiration: **Thursday, March 31, 2011 at 3:00 PM CDT/CST**



Please email signed document to: [contracts@bluestarenergy.com](mailto:contracts@bluestarenergy.com)

EDC ComEd  
Account Number 2912013008  
Meter Number 141136328  
Service Address 1405 E Central Rd  
City Arlington Heights IL 60005-3364  
Billing Group 1  
Product Code FPAL- Fixed All Inclusive

**I. Standard Billing Provisions**

Usage Bandwidth N/A  
Excess Usage Adder (\$/kWh) N/A  
Days to Pay BSE Invoice 14  
Billing Option Single

**II. Customer Specific Pricing and Information**

Anticipated Start Date May 2, 2011  
Term (months) 24  
Energy Cost per kWh \$0.05672

**Energy Cost Description**

Consolidated Energy Cost per kWh includes: Energy, Losses, Capacity, Transmission, and Ancillaries.  
Price includes all applicable renewable portfolio standards requirements.

**Network and Capacity Peak Load Contribution (PLC) Change Provision**

For Consolidated Pricing/All Inclusive contracts, changes to the Regional Transmission Organization (RTO) Reliability Pricing Model (RPM) rate, transmission costs, and/or the applicable Utility PLCs may be incorporated into Customer's Consolidated Rate as such changes occur for planning periods starting June 2011, 2012, 2013.

Customer  
Signature: X A Sims  
Name (print): X A Sims  
Title: X President  
Date: X 3/31/11

BSE  
Signature: Aaron Rasty  
Name: Aaron Rasty  
Title: President, Retail Electricity  
Date: 4/5/11

**Estimated Customer Usage Table (Based on Historical Usage)**

**Customer: Dana Point Condominium Association**



BlueStar Energy Services, Inc. shall be exclusive provider of demand response programs during the terms of this agreement.

Account	Meter	Month	Total kWh	Average Daily kWh	Max Demand kW
2912013008	141136328	January	77,465	2,499	127
2912013008	141136328	February	68,419	2,444	131
2912013008	141136328	March	70,876	2,290	110
2912013008	141136328	April	56,629	1,888	157
2912013008	141136328	May	92,140	2,972	188
2912013008	141136328	June	117,488	3,916	201
2912013008	141136328	July	133,320	4,301	211
2912013008	141136328	August	134,464	4,338	212
2912013008	141136328	September	100,260	3,342	211
2912013008	141136328	October	53,552	1,727	139
2912013008	141136328	November	59,685	1,990	113
2912013008	141136328	December	76,680	2,474	128

Initial



Your Power. Your Choice.™

## Electric Service Agreement (GTC v.1.1)

This Electric Service Agreement (this "Agreement"), which includes the below General Terms and Conditions (the "General Terms and Conditions"), any Transaction Confirmation ("Exhibit A"), and, if applicable, any additional REC Transaction Confirmation ("Exhibit B") and all attachments thereto, including any Attachment A-1 and any Attachment A-2 (the "Attachments"), is dated and effective as of March 28, 2011 between BlueStar Energy Services, Inc. d/b/a BlueStar Energy Solutions ("BSE") and Dana Point Condominium Association ("Customer") (each of BSE and Customer referred to individually as a "Party" and collectively as the "Parties").

### General Terms and Conditions

#### I. ENERGY SERVICES

A. **Retail Energy Services:** During the relevant Term (as defined in any Exhibit A), BSE shall supply and deliver to Customer on a firm basis, and Customer shall exclusively purchase and receive from BSE, all of the retail energy requirements of Customer's service location(s) (each, a "Service Location") (the "Retail Energy"), the terms and conditions of which are described in the relevant Exhibit A and Attachments. BSE shall be responsible for all nominations, scheduling, and balancing. The Retail Energy is delivered to the distribution systems interconnection point (each, a "Delivery Point") of the relevant electric distribution company(ies) (each, an "EDC") from which Customer purchases distribution and related services, and the relevant EDC is responsible for delivery of the Retail Energy to Customer's meter at and from that point. Title to, control and possession of the Retail Energy shall pass from BSE to Customer at the Delivery Point. The relevant EDC shall be specified in each Attachment A-1. Customer shall provide to BSE and designate BSE to each EDC as an authorized recipient of Customer's account information and current and historical billing and usage data. The delivery of the Retail Energy is subject to the terms and conditions of each EDC relating to delivery and metering. Customer consents to the disclosure by each EDC to BSE of certain basic information about Customer including: account number, meter number, meter read data, rate class, billing and payment information, account name, service address, billing address, and telephone number. Customer shall provide written notice as soon as practicable to BSE of any changes to Customer's account information, including meter numbers and/or billing locations associated with Customer's delivery services, for each Service Location. Unless otherwise agreed to in writing between BSE and Customer, Customer is solely responsible for payment of all charges of each EDC related to the delivery of the Retail Energy and other services from each EDC whether billed to BSE or Customer and any costs assessed by each EDC or any third party to facilitate the provision of service hereunder, including, but not limited to, any switching, telecommunications and/or meter or meter reading related costs. Customer represents and warrants that it is eligible to receive electric service from BSE and further represents and warrants that it has obtained all necessary authorizations and has given all required notices to the supplier currently serving Customer, if applicable.

B. **Demand Response Services:** Customer acknowledges that BSE offers demand response services, such as related programs whereby BSE is a licensed or authorized curtailment service provider (CSP) or Economic Demand Response opportunities provided solely by BSE ("Demand Response Services"), and should Customer choose to purchase any Demand Response Services for any Service Location during the relevant Term, BSE or one of BSE's affiliates shall be the exclusive provider during such Term. Terms and conditions of such services shall be described in a separate Demand Response Services agreement.

#### II. RENEWABLE ENERGY CERTIFICATES

If Customer agrees to buy from BSE Renewable Energy Certificates ("RECs"), which shall be purchased from third-parties ("REC Seller") and certified or otherwise verified by third-parties ("REC Certifier") at the price, origin, quantity and vintage contained in any Exhibit B, BSE shall endeavor to procure such RECs within five (5) business days of receipt of this Agreement. BSE makes no representations as to the nature or quality of, and has performed no independent verification of, the RECs sold pursuant to this Agreement, except as provided in any Exhibit B. BSE shall provide Customer with all documentation relative to REC certification or similar information that it receives from the REC Seller and/or the REC Certifier. BSE makes no representations, and Customer acknowledges and agrees that it has not relied upon any statements by BSE, as to the applicability of any given REC sold under this Agreement to any mandatory or voluntary renewable energy requirements or similar program.

#### III. USAGE VARIANCE AND IMBALANCE

Customer shall be billed for usage variance and imbalances as specified in any Exhibit A. In order to assist BSE in providing accurate expected usage information to the EDC, Customer shall timely, promptly and as soon as practicable, notify BSE in writing if Customer anticipates an increase or decrease in its usage of fifteen percent (15%) or more for any Service Location. BSE may in its sole discretion pass through the resulting cost increases to Customer. If BSE elects to pass through such cost increases, BSE shall calculate the amount of such costs in a commercially reasonable manner and submit an Invoice to Customer, which Invoice shall be due and payable pursuant to the payment terms of this Agreement. Without limiting Customer's obligation to provide such notice promptly and as soon as practicable, Customer shall provide BSE at least thirty (30) calendar days prior written notice prior to removing any Service Location from service hereunder as a result of ceasing operations (closing of any Service Location or sale of any Service Location to an unrelated third party) at such Service Location. Customer shall be responsible for payment of any actual damages incurred by BSE, if any, relating to or arising from any such changes.

#### IV. TAXES

BSE shall pay all taxes and all other costs associated with the electricity delivered prior to any Delivery Point, and Customer shall pay all taxes and all other costs at and after its delivery to the relevant Delivery Point and indemnify and hold harmless BSE from the same including, but not limited to, making payment of any interest and/or penalties relating to or arising therefrom.

#### V. BILLING and PAYMENT

A. **General Billing and Payment Terms:** BSE shall provide monthly Invoices based on the relevant EDC's meter read cycle. Based upon the availability of various EDC tariff options relating to utility consolidated billing (UCB) and supplier consolidated billing (SCB) and at the sole discretion of BSE, either BSE or the relevant EDC will issue Customer a Single Bill for both Retail Energy and delivery service, unless Customer requests in writing a separate bill from each of BSE and the relevant EDC (Dual Bill). BSE has the right to estimate bills in cases where actual billing determinants are unavailable. In cases where estimated bills are issued, BSE shall subsequently calculate any necessary adjustment between the actual bill(s) and the estimated bill(s) and post the debit or credit amount as soon as reasonably practicable. Customer shall pay all amounts by check or wire transfer, in immediately available funds, or Automated Clearinghouse, no later than the number of days specified in the relevant Attachment A-1 after

the date of BSE's Invoice. Late payments shall incur interest charges at a rate of interest equal to a per annum rate of eighteen percent (18%) or the maximum allowed under applicable law, whichever is less. In any instance where any payment, in addition to any late payment interest charge, if applicable, to BSE is declined by the Issuing Institution, Customer shall be assessed a charge of \$45 or the maximum allowed under applicable law (whichever is less) per delinquent payment. Customer shall be liable for all costs incurred by BSE, including attorneys fees, for collections on accounts greater than thirty (30) calendar days past due.

**B. Disputes and Adjustments of Invoices:** Customer may, in good faith, dispute the correctness of any invoice rendered under this Agreement. In the event that an invoice or portion thereof is disputed, payment of the undisputed portion of the invoice shall be made within normal terms, with notice of the dispute given to BSE in writing and stating the amount and basis for the dispute. Payment of any disputed amount shall not be required until the dispute is resolved. Customer and BSE shall take all reasonable steps to resolve informally all such disputed invoices, including, but not limited to, telephone and/or face-to-face conversations between decision-makers and exchange of information supportive of that Party's position. Upon resolution of the dispute, any required payment shall be made within five (5) business days of such resolution along with interest accrued at the per annum rate of eighteen percent (18%) or the maximum allowed under applicable law, whichever is less.

#### VI. TERM AND RENEWAL OF AGREEMENT

This Agreement shall be in effect for the relevant Term described in any Exhibit A. Not less than thirty (30) calendar days prior to the anticipated expiration date of the then current relevant Term, BSE may, in its sole discretion, provide written notice to Customer of BSE's intent to extend the relevant Term with respect to some or all accounts subject to this Agreement (each, a "Renewal Notice"). Any Renewal Notice shall contain BSE's proposed charges, extension term, and any other proposed changes, amendments, deletions or additions to the terms and conditions of this Agreement. Customer shall have five (5) business days to reject in writing any Renewal Notice. Customer's failure to reject any Renewal Notice in writing within five (5) business days shall result in such Renewal Notice being deemed to have been irrevocably and unconditionally agreed to by Customer. BSE shall have the right to withdraw any Renewal Notice without obligation prior to acceptance by Customer.

If following termination or expiration of this Agreement for any reason, whether in whole or in part, any of Customer's accounts remain designated by any EDC as being served by BSE, BSE may in its sole discretion either (a) continue to serve such account(s) on a month-to-month holdover basis (each, a "Holdover Term") or (b) move such account(s) to the then applicable tariff service, whether default service or otherwise, or to another authorized provider of electricity required to serve as the provider of last resort (any of the foregoing, an "Alternative Service"), and in either case BSE shall have the right to pursue all additional remedies available at law or in equity. The price payable during any Holdover Term shall be the applicable EDC LMP Day Ahead Index plus an adder of \$0.01 per kWh. This Agreement shall continue to govern the provision of service during any Holdover Term. During a Holdover Term, BSE may at any time move any account(s) to an Alternative Service without penalty or prejudice. Customer shall cooperate with BSE in its efforts to cease providing service to Customer after termination or expiration of this Agreement, whether in whole or in part.

#### VII. EARLY TERMINATION AND EFFECT OF TERMINATION

In addition to the early termination provisions contained in the "Events of Default" section of this Agreement, this Agreement may be terminated at any time after the date hereof by mutual consent in writing by the Parties. Such termination shall be effective on the next available drop date as established by each EDC. In the event of termination as provided in this Agreement, all further obligations of the Parties under this Agreement shall terminate without further liability of the Parties, except for the payment by the owing Party of any sums due and owing to the other Party for services rendered prior to the termination date, the Settlement Amount (in the event of termination under the "Events of Default" section of this Agreement), any indemnification or confidentiality obligation of either Party which has arisen hereunder and any other obligation hereunder which by its nature survives the termination of this Agreement.

#### VIII. CREDIT

All electric service offers are subject to credit approval and shall not become a final offer until the creditworthiness of Customer has been approved by BSE. Customer represents that there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it or, to its knowledge, threatened against it. Customer agrees to provide commercially reasonable credit information upon request. Should the creditworthiness or financial responsibility of Customer become unsatisfactory to BSE at any time during the Term, as determined by BSE in its commercially reasonable discretion, BSE may request additional financial statements in accordance with the previous sentence, and in addition thereto, require satisfactory security, including, but not limited to, a parental guaranty, escrow account, deposit, prepayment, or letter of credit, be provided by Customer. Upon receipt of such request from BSE, Customer shall have ten (10) business days to provide the requested adequate security to BSE. For the avoidance of doubt, BSE shall in no circumstances be required to provide security or any other form of adequate assurance to Customer.

#### IX. CONFIDENTIALITY

Both Parties agree that the terms and conditions of this Agreement and each transaction hereunder, including price and quantity information, and any other information of the other Party which it knows or should reasonably know to be confidential or proprietary, shall remain confidential, except for any required disclosure to any regulatory body, governmental entity or agency having jurisdiction, or disclosure to accountants, attorneys, or other professionals acting on behalf of the disclosing Party. The Party disclosing information to third party professionals acting on the Party's behalf shall be responsible for such person maintaining the confidentiality of the disclosed information. BSE agrees that such confidential treatment shall extend to Customer's usage and consumption data which is not otherwise in the public domain. This "Confidentiality" section of this Agreement shall survive termination of this Agreement.

#### X. EVENTS REQUIRING NOTICE

Any change to Customer's business address, mailing address, ownership, business name, e-mail address, telephone number, fax number, or contact person shall be communicated to BSE as soon as practicable but no later than fifteen (15) calendar days after any such change takes effect. BSE shall not bear any liability for any errors or omissions arising out of Customer's failure to comply with this section. All such notices shall be served in accordance with the "Notices" section of this Agreement.

#### XI. REPRESENTATIONS AND WARRANTIES

As a material inducement to entering into this Agreement, each Party, with respect to itself, hereby represents and warrants to the other Party as follows:

- (A) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement;
- (B) the execution and delivery of this Agreement are within its powers, have been duly authorized by all necessary actions and/or board approvals, and do not violate any of the terms or conditions in its governing documents or any contract to which it is a Party or any law applicable to it;
- (C) as of the date of service commencement hereunder, it shall have all regulatory authorizations necessary for it to legally perform its operations;
- (D) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending;

(E) If a broker has been involved in this transaction, such broker is an agent of Customer in this transaction and may receive a commission to be paid by BSE from payments received from Customer under this Agreement;

(F) If it is a property management company acting on behalf of the owner of the Service Location(s), it has the authority to execute and bind the Service Location(s) to this Agreement for the relevant Term and that the term of its property management agreement with the owner of the Service Location(s) is equal to or greater than the relevant Term; and

(G) the Service Location(s) to be provided the Retail Energy are not contractually bound by another agreement for Retail Energy that would overlap with the relevant Term.

Each Party covenants that it shall cause its respective representations and warranties to remain true and correct throughout the relevant Term.

## XII. NOTICES

Except in the event either Party is providing the other Party with any Exhibit A, Exhibit B or Attachment, any notice or other document to be given or served hereunder or under any document or instrument executed pursuant hereto, including, without limitation, any termination or disconnection notices, shall be in writing and shall be delivered to either the address specified below or the address to which bills are sent to Customer. Notice sent by facsimile or other electronic means shall be deemed to have been received by the close of the business day on which it was transmitted or such earlier time as is confirmed by the receiving Party. Notice delivered by courier shall be deemed to have been received on the business day after it was sent or such earlier time as is confirmed by the receiving Party. Notice delivered by mail shall be deemed to have been received at the end of the third business day after the date of mailing by prepaid first class mail, except that when there is a strike affecting delivery of mail, all notices shall be delivered by courier or by facsimile or other electronic means.

BlueStar Contact Information:		Disconnection Information:	Contract Termination Information:
Address 1:	363 West Erie Street, Suite 700	1405 E CENTRAL RD	<input checked="" type="checkbox"/> Same as Billing Information
Address 2:	Chicago, Illinois 60654	ALUMINUM HTS EL 60005	
Attn:	Contract Administration	TANISE COSTA	
Telephone:	866-BLUESTAR (258-3782)	847-228-5176	
Facsimile:	866-996-3782	847-228-5190	
Email:	contracts@bluestarenergy.com	T.COSTA@PSIMANAGEMENT.NET	
How would you like to receive your Invoices (if billed by BSE)? <input checked="" type="checkbox"/> Email (Recommended) <input type="checkbox"/> Paper Bill <input type="checkbox"/> Fax			

## XIII. EVENTS OF DEFAULT

A. **Definition:** An "Event of Default" shall mean, with respect to the applicable Party to whom the following applies (the "Defaulting Party"), the occurrence of any of the following: (a) the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) business days after written notice and demand of payment; (b) any representation or warranty made by such Party herein being false or misleading in any material respect when made or ceases to remain true during any Term; (c) the failure of such Party to perform any material covenant or obligation set forth in this Agreement and such failure is not remedied within five (5) business days after written notice; (d) Customer: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), or (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets as part of bankruptcy proceeding or reorganization for the benefit of creditors; (e) the failure of Customer to provide security or otherwise satisfy the creditworthiness requirements under the "Credit" section of this Agreement; (f) Customer consolidates or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of Customer under this Agreement; or (g) Customer's failure to cooperate with BSE as reasonably required in order for BSE to perform its obligations under this Agreement.

B. **Suspension and Early Termination:** If an Event of Default occurs, the Party that is not the Defaulting Party (the "Non-Defaulting Party") may, at its option and in its sole discretion, take any one or more of the following actions: (1) suspend its performance under this Agreement; or (2) terminate this Agreement by sending written notice to the Defaulting Party providing the termination date for this Agreement (the "Early Termination Notice"). In the event of such suspension or an early termination, Customer shall pay to BSE all amounts owed under this Agreement, including amounts owed for delivered performance, whether or not then invoiced. In the event of such an early termination, the Defaulting Party shall pay to the Non-Defaulting Party as liquidated damages a settlement amount (the "Settlement Amount") as follows:

If Customer is the Defaulting Party, the Settlement Amount shall equal the greater of (1) Retail Margin, plus Supply Termination Costs, plus Enforcement Costs or (2) zero. If BSE is the Defaulting Party, the Settlement Amount shall equal the greater of (1) Market Value less Contract Value, plus Enforcement Costs or (2) zero.

As used herein, the following terms shall have the following meanings:

"Contract Value" means the amount that would have been owed by Customer under this Agreement for the Remaining Performance had this Agreement not been terminated early.

"Enforcement Costs" means any attorneys' fees, expenses, and costs incurred by the Non-Defaulting Party in connection with enforcing its rights under this Agreement.

"Market Value" means the amount a bona fide third party retail customer would pay for the Remaining Performance at retail market prices as of the termination date.

"Remaining Performance" means the remaining performance, including kWhs, under this Agreement for the remainder of the relevant Term had it not been terminated early, based on historical usage.

"Retail Margin" means the amount of BSE's forecasted retail margin under this Agreement, determined based on the differential between wholesale and retail market prices at the time of this Agreement or any extension hereof, allocable to the Remaining Performance.

"Supply Termination Costs" means any loss or cost that BSE would incur in terminating or liquidating the portion of any supply contracts, hedges, or related trading positions or arrangements held by BSE allocable to the Remaining Performance, whether or not such action is taken.

BSE shall calculate the Settlement Amount in its commercially reasonable discretion, including where applicable BSE estimates of market prices and forward market prices. Such calculation shall be included in any Early Termination Notice provided by BSE or, if the termination date selected by BSE is after the date of the Early Termination Notice or the Early Termination Notice is delivered by Customer, BSE shall provide such calculation to Customer within a reasonable period following the termination date. The Settlement Amount shall be paid by the Party that owes it within five (5) business days after such notice is received following receipt of the calculation of the Settlement.

Amount by BSE. The Parties acknowledge and agree that the Settlement Amount constitutes a reasonable approximation of harm or loss, and is not a penalty or punitive in any respect. The rights and remedies of BSE under this Agreement and at law are cumulative, and no single or partial exercise shall be deemed to be a waiver of or prejudice any other right or remedy of BSE.

C. Duty to Mitigate: Each Party agrees that it has a duty to mitigate damages and to use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

#### XIV. FORCE MAJEURE

"Force Majeure" shall mean an event or circumstance which prevents the claiming party (the "Claiming Party") from performing its obligations or causes delay in the Claiming Party's performance under this Agreement, which event or circumstance was not anticipated as of the execution date of this Agreement and is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of commercially reasonable efforts, the Claiming Party is unable to overcome or avoid or cause to be avoided, such as, but not limited to, acts of God; fire; flood; terrorism; breach by the EDC; electric grid interruption; earthquake; war; riot; or requirements, actions or failure to act on the part of governmental authorities. Force Majeure shall not be based on Customer's inability to economically use the Retail Energy purchased hereunder; Customer's ability to buy the Retail Energy from any other entity at a rate lower than the Energy Price as defined in any Exhibit A; or BSE's ability to sell the Retail Energy to any other entity at a rate higher than the Energy Price as defined in any Exhibit A.

To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Claiming Party gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations under this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure event) for the duration of the Force Majeure event. Neither Party shall be entitled to the benefit of this provision to the extent the Party claiming suspension fails to remedy the Force Majeure condition by taking all commercially reasonable acts, short of litigation, or fails to resume performance of its obligations with all reasonable dispatch following resolution of the Force Majeure condition. The non-Claiming Party shall not be required to perform its obligations to the Claiming Party for the period of the Force Majeure. If the Force Majeure continues for a period in excess of thirty (30) calendar days (an "Extended Force Majeure Event"), the performing Party may terminate this Agreement by providing the other Party written notice of the early termination, without the termination for an Extended Force Majeure Event constituting an Event of Default subject to the payment of the Settlement Amount under the terms of this Agreement. Customer acknowledges that while BSE may take title to the Retail Energy provided hereunder, BSE does not own or operate transmission or distribution systems through which the Retail Energy is delivered to Customer, and the Parties therefore agree that BSE shall not be liable for any damages associated with any failure in the delivery of the Retail Energy in connection with the failure of such transmission or distribution systems.

#### XV. FORWARD CONTRACT

This contract shall constitute a "forward contract" within the meaning of the U.S. Bankruptcy Code, as amended, and BSE constitutes a "forward contract merchant" within the meaning of the U.S. Bankruptcy Code, as amended. Further, BSE is not providing advice regarding "commodity interests," including commodity futures contracts and commodity options contracts or any other matter, which would cause it to be a "commodity trading advisor" under the U.S. Commodity Exchange Act, as amended.

#### XVI. SET-OFF AND NETTING

BSE shall have the right to set-off and net against any amounts owed to it by Customer under this Agreement, including, without limitation, any Settlement Amount, any of the following amounts: (a) monies owed to Customer under this Agreement or under any other agreement between BSE, on the one hand, and Customer or any of Customer's Affiliates, on the other hand, and (b) any collateral or other financial assurance provided by Customer to BSE under this Agreement. Customer shall not set off or net against any payments due to BSE under this Agreement.

#### XVII. GOVERNING LAW AND WAIVER OF JURY TRIAL

As to all matters of construction and interpretation, this Agreement, with respect to any Service Location, shall be interpreted, governed by and construed in accordance with the laws of the state where such Service Location is located, without regard to its choice of law provisions. Any action arising out of this Agreement shall be filed in a state or federal court located in the state where such Service Location is located. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE RIGHT TO TRIAL BY JURY OF ANY SIZE IS IRREVOCABLY WAIVED.

#### XVIII. RELATIONSHIP OF PARTIES

BSE is an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. BSE is not acting as Customer's consultant or advisor, and Customer shall not rely on BSE in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices or any other matter. Customer's decision to enter into this Agreement and any other decisions or actions it may take is and will be based solely upon its own analysis (or that of its advisors) and not on information or statements from BSE.

#### XIX. CHANGES IN LAW OR REGULATION

In the event that any change in any statute, rule, regulation, order or other law, or procedure, tariff, rate class or other process or charge, promulgated by any governmental authority or EDC, Independent Service Operator ("ISO"), Regional Transmission Operator ("RTO") or other regulated service provider, alters to the detriment of BSE its costs to perform or its economic returns under this Agreement (a "Negative Change in Regulation"), BSE may revise the pricing under this Agreement to eliminate the impact of such Negative Change in Regulation. Before any such price revision, BSE shall provide written notice to Customer of the Negative Change in Regulation, the resulting price revisions, and the date upon which such revised pricing shall be effective. Customer shall pay the revised price described in such notice, and all other terms and conditions of this Agreement shall remain in full force and effect.

#### XX. SEVERABILITY

The various provisions of this Agreement are severable. Any provision or section of this Agreement declared or rendered void, unlawful, or otherwise unenforceable by a court of competent jurisdiction or regulatory agency with jurisdiction over the Parties, or deemed similarly void, unlawful, or unenforceable because of a statutory, regulatory, or administrative change, shall not otherwise affect the lawful obligations that arise under this Agreement.

#### XXI. INDEMNITY

BSE shall defend, indemnify, and hold Customer harmless against all claims and liabilities resulting from BSE's negligence or breach of this Agreement and arising prior to the delivery of the Retail Energy to the relevant Delivery Point, except to the extent such claims and liabilities arise out of Customer's negligence or breach of this Agreement. Customer shall assume full responsibility for any damages or losses relating to the delivery of the Retail Energy at and after its delivery to the relevant Delivery Point and shall defend, indemnify, and hold BSE harmless against all claims and liabilities arising at and after the delivery of the Retail Energy to the relevant Delivery Point, except to the extent such claims and liabilities arise out of BSE's negligence or breach of this Agreement.

#### XXI. ASSIGNMENT

This Agreement shall be binding on and inure to the benefit of each Party's successors and permitted assigns. Neither Party shall assign this Agreement or its rights without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, either Party may (a) assign its rights and obligations under this Agreement to an Affiliate without consent of the other Party, subject to the Affiliate's ability to comply with the "Credit" section of this Agreement and such Affiliate agrees to be bound by the terms and conditions hereof, (b) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets, subject to the assignee's ability to comply with the "Credit" section of this Agreement; or (c) assign this Agreement for financing purposes; provided, however, that in each such case, other than an assignment for financing purposes, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such enforceability assurances as the non-transferring Party may reasonably request. Creditworthiness under this section is to be reasonably determined by the non-transferring Party. As used herein, "Affiliate" shall mean with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For purposes of the foregoing definitions, "control" means the direct or indirect ownership of more than fifty percent (50%) of the outstanding capital stock or other equity interests having ordinary voting power.

#### XXIII. WARRANTY, DISCLAIMER AND LIMITATION OF LIABILITY

BSE warrants title to all Retail Energy and RECs, as applicable, delivered hereunder and sells such Retail Energy and RECs, as applicable, to Customer free from liens and adverse claims. THIS IS BSE'S ONLY WARRANTY CONCERNING THE SERVICES AND RECS, AS APPLICABLE, PROVIDED HEREUNDER AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR OTHERWISE. BSE DOES NOT GUARANTEE UNINTERRUPTED SERVICE AND SHALL NOT BE LIABLE FOR ANY DAMAGES SUSTAINED BY CUSTOMER BY REASON OF ANY FAILURE, ALTERATION OR INTERRUPTION OF SERVICE. BSE DOES NOT GUARANTEE APPLICABILITY TO ANY VOLUNTARY OR GOVERNMENT-MANDATED RENEWABLE ENERGY PROGRAM, AND SHALL NOT BE LIABLE FOR ANY DAMAGES SUSTAINED BY CUSTOMER BY REASON INAPPLICABILITY TO THE SAME. EXCEPT AS PART OF ANY PAYMENT OF THE SETTLEMENT AMOUNT IN ACCORDANCE WITH THE TERMS HEREOF, NEITHER PARTY SHALL BE RESPONSIBLE UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES. IN ADDITION, BSE'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL OF THE FIRST TWO BSE INVOICES REFLECTING THE ENERGY COST SPECIFIC TO CUSTOMER'S METER READS AS THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR INEQUITY ARE EXPRESSLY WAIVED. TO THE MAXIMUM EXTENT POSSIBLE UNDER LAW, ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO THE RETAIL ENERGY SOLD HEREUNDER.

#### XXIV. WAIVER

No waiver by either Party of any default by the other Party under this Agreement shall operate as a waiver of any future default, whether of a like or different character or nature. No delay or failure by BSE in enforcing any part of this Agreement shall be deemed a waiver of any of its rights or remedies.

#### XXV. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof. There are no promises, covenants or understanding other than those expressly set forth herein. This Agreement may only be amended by a written instrument executed by both Parties. Any Exhibit A, Exhibit B or Attachment executed pursuant to this Agreement by the Parties after the date hereof shall become a part of this Agreement as of the effective date of such Exhibit A, Exhibit B or Attachment. In the event of a conflict between the terms of the General Terms and Conditions and any Attachment, the terms of any Attachment shall govern. This Agreement is effective only upon Customer's execution and BlueStar's subsequent execution or performance of this Agreement.

#### XXVI. COUNTERPARTS

This Agreement may be executed in one or more counterparts and each executed counterpart shall be considered an original, provided that such counterpart is delivered to the other Party by facsimile, mail, courier or electronic mail, all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by a duly authorized representative in duplicate, effective as of the date first written above.

BlueStar Energy Services, Inc. d/b/a  
BlueStar Energy Solutions

Signature: 

Name: Aaron D. Rasty

Title: President, Retail Electricity

Date: 4/5/11

Customer: Dana Point Condominium Association

Signature: 

Name: A. Sime

Title: President

Date: 3/3/11



## Electric Service Agreement Exhibit A

(CE Ex. A 2010 v.2.0)

The following details of this Exhibit A to the Electric Service Agreement (this "Exhibit A") shall, upon execution, become part of and be governed by the General Terms and Conditions (the "General Terms and Conditions" and collectively with this Exhibit A and all Attachments, the "Electric Service Agreement") and be dated and effective as of March 29, 2011. In the instance where this Exhibit A is executed prior to the Electric Service Agreement General Terms and Conditions, the Parties shall work in good faith to expeditiously complete and execute the Electric Service Agreement General Terms and Conditions. This offer is contingent on credit approval by BSE prior to Retail Energy delivery. Capitalized terms not otherwise defined in this Exhibit A shall have the meaning ascribed to such terms in the Electric Service Agreement.

**Nature of Service:** BSE shall serve Customer's full usage requirements at Customer's facilities based upon the retail electric energy needs of the Service Location(s) listed on Attachment A-1.

**Electric Energy and Related Services Pricing:** Customer's total monthly invoice shall be itemized by the various costs associated with the functions specific to electric retail supply and delivery in the EDC service territory listed in Attachment A-1. The monthly itemized expenses may be comprised of: 1) Energy Charges, 2) Energy Losses Charges, 3) Capacity Charges, 4) Transmission and Ancillary Services Charges, and potentially 5) Delivery Service Charges. The itemized costs shall be determined by the executed Attachment A-1 and as described in the Definitions of Terms below.

**Term:** BSE shall use commercially reasonable efforts to commence service under this Exhibit A (a) upon the earlier of (1) any date immediately following the date of this Exhibit A, as requested by Customer, determined by BSE and permitted by the EDC (an "Early Start Date"), or (2) the first available meter read date, as determined by the EDC, in the Anticipated Start Month specified in Attachment A-1 (the "Meter Read Date," and, collectively with an Early Start Date, the "Start Date"), and (b) after BSE receives confirmation that the EDC has completed its processing and has accepted the delivery service request. BSE shall not be liable for any lost savings or lost opportunity as a result of a delay in service commencement due to actions or inactions of the EDC. This Exhibit A shall remain in effect from the Start Date for the number of months specified in Attachment A-1, unless sooner terminated under the Electric Service Agreement.

### Definitions of Terms:

The following terms are applicable to all products; however, charges shall only be itemized if prescribed in Attachment A-1 and shall be calculated as prescribed in Attachment A-1:

**Delivery Point:** Customer shall take delivery of the retail energy at the interconnection of the EDC transmission and distribution systems (the "Delivery Point").

**Energy Losses Charge:** Energy Losses Charges are charges associated with the delivery of the retail energy as prescribed in the transmission and distribution tariffs.

**Capacity Charge:** The Capacity peak load contribution (PLC) is determined and provided by the EDC for each of Customer's Utility Account Number(s). Capacity charges are administered by PJM and determined for Customer using its PLC. Capacity charges may be changed based on adjustments by the applicable Regional Transmission Organization (RTO) and/or EDC to the Customer's PLC.

**Transmission and Ancillary services:** BSE shall act as Customer's agent for securing and managing Customer's transmission service during the term of this Agreement. Transmission and ancillary services charges include all applicable RTO and Open Access Transmission Tariff (OATT) charges. Transmission charges may be changed based on adjustments by the applicable RTO and/or EDC to the Customer's PLC.

**Delivery Service:** The below Energy Price or Default Energy Price, as applicable, does not include any of the EDC's charges for services under its EDC Electric Rate tariff, facilities charges, or any related taxes. While these charges are the responsibility of Customer, if specified in Attachment A-1, BSE shall incorporate them into the BSE Retail Energy Invoice so that Customer will only need to manage one electric energy invoice.

The following terms are applicable to fixed price products; however, charges shall only be itemized if prescribed in Attachment A-1 and shall be calculated as prescribed in Attachment A-1:

**Energy Price:** The Energy Price shall be determined based upon Customer's historical or, if provided, forecasted load data which is considered representative of the Service Location(s)' anticipated retail energy requirements for the proposed term. The Energy Price is set forth in the Attachment A-1 and applies to all Retail Energy covered under this Agreement. The Energy Price also applies to any unmetered lighting volumes of electricity delivered to the accounts covered by this Agreement.

**Monthly Billing Cycle Minimum:** The Monthly Billing Cycle Minimum shall be set at one (1) minus the Usage Bandwidth defined in Attachment A-1 multiplied by the Estimated Customer Usage Table as summarized in Attachment A-1.

**Shortfall Charge (Credit):** In cases where Customer usage is less than the Monthly Billing Cycle Minimum, the shortfall kWhs shall be calculated as the Monthly Billing Cycle Minimum less the Estimated Customer Usage Table. These shortfall kWhs shall be invoiced at the Energy Price less the average applicable PJM EDC zone real time hourly index price.

**Monthly Billing Cycle Maximum:** The Monthly Billing Cycle Maximum shall be set at one (1) plus the Usage Bandwidth defined in Attachment A-1 multiplied by the Estimated Customer Usage Table as summarized in Attachment A-1.

**Excess Usage Charge:** All usage in excess of the Monthly Billing Cycle Maximum shall be invoiced at the average applicable PJM EDC zone real time hourly index price plus the Excess Usage Adder as defined in Attachment A-1.

**Summer Price:** Summer Pricing applies to the June meter read, as defined by the applicable EDC Meter Bill Group, and the next three consecutive full meter reading periods.

**Non-Summer Price:** Non-summer pricing applies to all other meter reading periods not defined as Summer.

**On-Peak Price:** On-peak pricing shall apply to all usage from Monday through Friday, excluding North American Electric Reliability Corporation (NERC) holidays, from Hour Ending (HE) 0700 Eastern Prevailing Time (EPT) through HE 2200 EPT.

**Off-Peak Price:** Off-peak pricing shall apply to all usage in hours not defined under On Peak Price.

**Metering Changes:** If during the term of the Electric Service Agreement, meters capable of measuring hourly electric usage are installed, BSE may, in its sole discretion, revise the Energy Price set forth on Attachment A-1 in order to reflect the financial impact occasioned by the new metering. BSE shall notify Customer in writing of the new Energy Price, and upon notification of the change in Energy Price, Customer shall have fifteen (15) days to notify BSE to cancel the Electric Service Agreement.

**Usage Variations:** BSE may provide Customer with an adjustment to the Energy Price or to the Attachment A-1 volumes if Customer provides notice of changes in operations affecting usage as specified in the General Terms and Conditions. If Customer is taking an on-peak/off-peak based price from BSE (specified in Attachment A-1) and BSE in its sole discretion determines that Customer's usage profile has changed so as to affect adversely BSE's ability to provide such price, BSE shall provide thirty (30) days written notice to Customer of termination of the Electric Service Agreement subject to the Settlement Amount calculation defined in the General Terms and Conditions.

The following terms are applicable to index-based price products; however, charges shall only be itemized if prescribed in Attachment A-1 and shall be calculated as prescribed in Attachment A-1:

**Default Energy Price:** The Default Energy Price shall be based upon the applicable PJM EDC zone-day ahead hourly index price (Index) plus a Default Index Adder.

**Default Index Adder:** The Default Index Adder shall be specified in Attachment A-1. Specific to the Default Index Adder, On-Peak and Off-Peak shall be defined according to the hours as specified in On-Peak and Off-Peak Price defined above.

**Non-Time of Use (TOU) Adder:** In cases where hourly usage is not provided by the EDC (i.e. non metered services and/or scalar meters), the Default Energy Price shall be the average of the applicable PJM EDC zone day ahead hourly index price plus an adder as prescribed in Attachment A-1.

**FRCQ:** As an alternative to the Default Energy Price, Customer may request to fix the electric energy rate for a portion of the electric usage (the Fixed Rate Contract Quantity or FRCQ), for the Service Location(s) located within the EDC service territory. In the case of an On-Peak and Off-Peak FRCQ, On-Peak and Off-Peak shall be defined as according to NERC. The FRCQs are listed in Attachment A-1.

**Excess Usage Charge:** Usage above the FRCQ shall be billed at the Default Energy Price.

**Shortfall Charge:** In cases where Customer's usage is less than the FRCQ (Shortfall), Customer's Shortfall kWhs shall be invoiced at the fixed Energy Price less the applicable PJM EDC zone day ahead hourly index price.

**Usage Variations:** If BSE in its sole discretion determines that Customer's usage profile has changed so as to adversely affect BSE's ability to provide an index-based price, BSE shall provide thirty (30) days written notice to Customer of termination of the Electric Service Agreement subject to the Settlement Amount calculation defined in the General Terms and Conditions.

BlueStar Energy Services, Inc. (d/b/a)  
BlueStar Energy Solutions

Customer: Dana Point Condominium Association

Signature: \_\_\_\_\_

Name: Aaron D. Rasly

Title: President

Date: 4/5/11

Signature: \_\_\_\_\_

Name: A. Simon

Title: President

Date: 3/31/11

## NON-RESIDENTIAL DESIGNATION OF GENERAL ACCOUNT AGENT

As provided for in the tariffs of Commonwealth Edison Company ("ComEd"), Customer hereby designates the following third-party BLUESTAR ENERGY SERVICES, INC. to act as Customer's General Account Agent ("General Account Agent") for all purposes in arranging and managing tariffed services provided by ComEd in regard to the Account number(s) listed on the back of this form. ComEd may rely and act on any and all representations and requests made by General Account Agent on behalf of Customer as if made by Customer directly, except that General Account Agent shall not have authority to request that ComEd release prior credit history or disconnect service.

Mail all bills and correspondence to this address:

363 West Erie Street

Suite 700

Chicago, IL 60654

General Account Agent contact information:

Contact Name: BlueStar Energy Services

Phone Number: 866-258-3782

Fax Number: 866-996-3782

Email: care@bluestarenergy.com

Customer acknowledges that General Account Agent is an agent of Customer, not of ComEd. Customer acknowledges that ComEd will send all bills and notices, including notices prior to disconnection, to General Account Agent. Customer may or may not receive such notices directly from ComEd in the future. ComEd is not a party to, and shall not be bound by, the agreement(s) between Customer and General Account Agent. The use of a General Account Agent does not amend, modify, or alter ComEd's tariffs or any contracts between ComEd and Customer. General Account Agent has no authority to enter into any agreement on behalf of ComEd or to amend, modify, or alter any of ComEd's tariffs, contracts, or procedures, or to bind ComEd by making any promises, representations, or omissions. This Designation of General Account Agent shall be valid until Customer or General Account Agent provides ComEd with written notice of its termination or until this Designation is otherwise terminated in accordance with ComEd's tariffs.

The designation or use of a General Account Agent does not affect Customer's responsibilities to timely pay ComEd all amounts due and perform and satisfy all other obligations applicable to Customer. Customer shall remain liable to timely pay ComEd for all balances due for services rendered by ComEd and all other balances owed ComEd, even if General Account Agent fails to remit to ComEd amounts paid by Customer to General Account Agent for remittance to ComEd. Customer shall be responsible to protect its interests with General Account Agent. The appointment of General Account Agent shall not give Customer or General Account Agent any additional rights beyond those Customer would have under ComEd's tariffs and any agreements between ComEd and Customer. ComEd shall not be required to perform services for General Account Agent as agent of Customer that ComEd does not perform for Customer.

ComEd will begin processing this Designation of General Account Agent form on the 'Requested ComEd Processing Date.' This may take one to 10 business days.

Please email, fax or mail this form to:

ESSDContracts@ComEd.com

Fax #(630) 684-3990

ComEd - ESSD  
1919 Swift Road  
Oakbrook, IL 60523

*Dana Point*  
X [Signature] Condominium Assn.  
Customer Name (as it appears on ComEd bill)  
X 5/31/11  
Date  
X [Signature]  
Signature of ComEd Customer (not agent)  
X President  
Title of ComEd Customer Signing this form



**RIDER TO ENERGY SERVICE AGREEMENT ("AGREEMENT")  
DATED FEBRUARY 3, 2011 BY AND BETWEEN  
DANA POINT CONDOMINIUM ASSOCIATION ("CUSTOMER")  
AND BLUESTAR ENERGY SERVICES, INC. ("BSE")**

Dated: 2/31/11

CUSTOMER and BSE hereby agree to the following terms as an integral part of their Agreement.

1. In the event of conflict between the terms of the Agreement (including the exhibits and riders attached thereto) and the terms of this Rider, the terms of this Rider shall control.

2. The following shall be added as Section I(C) of the General Terms and Conditions:

In the event that BSE fails to provide Customer with retail energy requirements to adequately comply with the Customer's historical utility usage, BSE shall reimburse Customer for any extra charges incurred by Customer for electricity obtained from another source as may be necessary.

3. Under Section VI of the General Terms and Conditions, the fourth and fifth sentences shall be deleted and replaced with the following:


Customer shall have thirty (30) days from receipt of the revised offer to either accept or reject the revised offer in writing pursuant to the terms of the revised offer. Absent Customer's timely written acceptance or objection to the revised offer, the Customer will be conclusively deemed to have rejected the revised offer and the Agreement between BSE and Customer shall terminate at the end of the original term.

4. The members of the Board of Directors of the Dana Point Condominium Association are acting only as agents for the unit owners in the condominium association and shall have no personal liability hereunder (except as unit owners) and each unit owner's total liability hereunder shall be limited to such proportion to the total liability hereunder as his percentage of interest in the common elements bears to the total percentage interest of all unit owners in the common elements.

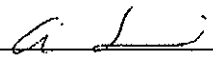
5. A change in the delivery costs of electricity to Customer is not grounds for declaring Force Majeure.

6. In the event either party initiates legal proceedings to assert its rights hereunder, the prevailing party shall, in addition to any other remedy, recover its reasonable attorneys' fees and expenses incurred in connection therewith from the other party.

The parties agree to the terms of this Rider on the date first mentioned above by executing their signature below:

BLUESTAR ENERGY SERVICES  
By:   
Its: 4/5/11

DANA POINT CONDOMINIUM ASSOCIATION

By:   
Its: President