

RESOLUTION

BE IT RESOLVED by the Municipal Utilities Board of Decatur, Morgan County, Alabama that this Board does hereby approve and request that the Decatur City Council authorize the Mayor to sign a two-party Agreement between the Tennessee Valley Authority (TVA) and the City of Decatur for the delivery of 15,500 kW of 5 Minute Response (5MR) Interruptible Power to Air Products and Chemicals, Inc. (Air Products). Said Agreement implements certain wholesale billing arrangements between TVA and Decatur Utilities that will pass the appropriate portion of 5MR revenues collected from Air Products to TVA.

CERTIFICATE

I, Richard Grace, Secretary of the Municipal Utilities Board of Decatur, hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by said Board at a meeting thereof duly called and held as the same appears in the minutes of said meeting in my custody and control.

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary of the Municipal Utilities Board of Decatur on this 21st day of November, 2012.



Richard Grace
Secretary

RESOLUTION 12-451

BE IT RESOLVED by the City Council of the City of Decatur in the State of Alabama that this Council hereby approves and authorizes the Mayor to sign an Agreement between the Tennessee Valley Authority (TVA) and the City of Decatur for the supply of up to 15,500 kW of 5 Minute Response (5MR) Interruptible Power to Air Products and Chemicals, Inc. (Air Products). Said Agreement implements certain wholesale billing arrangements between TVA and Decatur Utilities that will pass the appropriate portion of 5MR revenues collected from Air Products to TVA.

CERTIFICATE

I, Stacy Gilley, City Clerk of the City of Decatur, Alabama hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Decatur at a regular meeting of the same held on _____, 2012, as the same appears of record in the minutes of said meeting in my custody and control.

IN WITNESS WHEREOF, I have hereunto set my hand as City Clerk of the City of Decatur and affixed the seal of the City of Decatur to the certificate on this _____ day of _____, 2012.

Stacy Gilley
City Clerk

AGREEMENT
Between
CITY OF DECATUR, ALABAMA
And
TENNESSEE VALLEY AUTHORITY

Date: _____

TV-48555A, Supp. No. 112

THIS AGREEMENT, made and entered into between CITY OF DECATUR, ALABAMA (Distributor), a municipal corporation created and existing under and by virtue of the laws of the State of Alabama, and TENNESSEE VALLEY AUTHORITY (TVA), a corporation created and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended (TVA Act);

WITNESSETH:

WHEREAS, TVA and Distributor have entered into a contract dated March 24, 1978, as amended (Power Contract), under which Distributor purchases its entire requirements for electric power and energy from TVA for resale; and

WHEREAS, Distributor, and Air Products and Chemicals, Inc. (Company) have entered into a power supply contract of even date herewith (Company Contract), under which Company purchases power from Distributor for a term of at least fifty-eight (58) months for the operation of Company's plant in Decatur, Alabama; and

WHEREAS, TVA, Distributor, and Company have entered into an agreement of even date herewith (5 MR Agreement) covering arrangements for Distributor and Company to participate in TVA's 5 Minute Response (5 MR) Interruptible Program under which a portion of Company's contract demand will be designated as 5 MR interruptible power; and

WHEREAS, the parties wish to supplement and amend the Power Contract and to enter into such other arrangements as are necessary between TVA and Distributor with respect to Distributor providing service to Company under the 5 MR Agreement;

NOW, THEREFORE, for and in consideration of the premises and of the mutual agreements set forth below; and subject to the provisions of the TVA Act, the parties mutually agree as follows:

SECTION 1 - TERM OF AGREEMENT

This agreement shall become effective as of the effective date of the 5 MR Agreement, and shall continue in effect until expiration or termination of the 5 MR Agreement, or of the Power Contract, whichever first occurs.

SECTION 2 - BILLING DATA

2.1 Metering Data. Data obtained from the metering facilities referred to in section 5 of this agreement will be used (a) by Distributor for the purposes of determining the power and energy taken by Company and (b) by TVA for determining applicable adjustments for Distributor's wholesale bill.

2.2 Billing Data Supplied by Distributor. As a condition for TVA making 5 MR available to Distributor, Distributor shall provide TVA the following information related to Company's power and energy takings under the 5 MR program.

2.2.1 Bills to Company. To facilitate TVA's preparation of the bill to Distributor for power and energy made available under the Power Contract, each month Distributor shall furnish to TVA a copy of Distributor's bill to Company for power and energy made available under the Company Contract.

2.2.2 5 MR Data. Distributor shall also provide such other information related to Company's power and energy takings as TVA may require, including but not limited to, any charges associated with 5 MR, 5 MR credits, and Credit Reduction Charges.

SECTION 3 - ADJUSTMENTS TO DISTRIBUTOR'S WHOLESALE BILLING

In calculating the wholesale bill each month for Distributor, the following steps will be taken with respect to Company:

3.1 Demand and Energy Charges. Distributor will be billed demand and energy charges as provided in the wholesale rate schedule (Wholesale Schedule), which is contained in the Schedule of Rates and Charges attached to and made a part of the Power Contract, for the demand and the energy deemed to have been taken by Company under the Company Contract and the 5 MR Agreement.

3.2 5 MR Credits. TVA will apply a credit to the wholesale power bill equal to any 5 MR credit applied to Company's bill in accordance with the 5 MR Agreement.

3.3 Credit Reduction Charges. In the event that any Credit Reduction Charges are applied to Company's bill in accordance with the 5 MR Agreement, the amount of the Credit Reduction Charges will be included in a subsequent wholesale bill as provided for in section 4 below.

3.4 Administrative Costs Charge. An amount equal to the portion of the Administrative Costs Charge billed to Company (in accordance with the 5 MR Agreement) which is for coverage of TVA's costs will be included as part of the wholesale bill. It is recognized that the current total charge to Company each month includes \$350 allocated for TVA costs, which allocation shall not be increased without a corresponding increase of the total Administrative Costs Charge applicable under the 5 MR Agreement. TVA and Distributor also agree to coordinate, and to cooperate with each other to implement, any increase of said total Administrative Costs Charge that the other party deems necessary to address any increase in its costs.

3.5 Adjustment 3 of Wholesale Schedule. It is expressly recognized that Adjustment 3 to the Wholesale Schedule shall apply; provided, however, that the amount owed by Distributor under Adjustment 3 shall be reduced by the amount calculated to reduce Company's bill under subsection 3.2.1 of the 5 MR Agreement.

SECTION 4 - CREDIT REDUCTION CHARGES

(a) In the event that any Credit Reduction Charges are applied to Company's bill in accordance with the 5 MR Agreement, except as otherwise provided in (b) below, the amount of the Credit Reduction Charges will be included in the wholesale bill for the first wholesale billing month occurring at least 60 days after the date that such Credit Reduction Charge is to be paid by Company.

(b) In the event that Company fails to pay any Credit Reduction Charges when due:

(i) Distributor shall promptly notify TVA in writing. Within 90 days after the date on which Company becomes past due in the payment of any Credit Reduction Charges, Distributor, after consultation with TVA, shall institute litigation to enforce payment. To the extent determined by TVA to be appropriate, TVA will assist Distributor in such efforts. Upon failure of Distributor to do so, TVA may institute such litigation in the name of Distributor, or in the name of TVA, or in the name of both, and any actions taken by TVA in connection with such litigation shall be binding on Distributor.

(ii) The amounts applicable under (a) above shall accrue but shall not become payable by Distributor until collection is made from Company. If all legal remedies are pursued, Distributor's payment obligations to TVA shall be limited to the amount recovered from Company reduced by the costs (not recovered from the Company) reasonably incurred by Distributor in the prosecution of such litigation.

SECTION 5 - METERING FACILITIES

5.1 Revenue Meter. It is recognized and agreed that Distributor is responsible for providing, installing, and maintaining the meter and associated equipment which in TVA's judgment are needed for determining the amounts of power and energy associated with 5 MR. Such metering facilities shall include a solid-state type revenue meter (Revenue Meter) capable of remote telephone access. Distributor will, at its expense, provide the equipment and materials and perform the work necessary to install the Revenue Meter. Thereafter, Distributor shall test, calibrate, operate, maintain, repair, and replace all facilities in the metering installation.

5.2 Remote Access. In accordance with guidelines or specifications furnished or approved by TVA, Distributor shall provide or otherwise arrange for a telephone circuit (or an alternative system approved by TVA) and all other equipment necessary to allow remote access by TVA to the metering data recorded by the Revenue Meter under the 5 MR Agreement.

5.3 Access by TVA. Distributor agrees for TVA to have access to the data stored in the Revenue Meter through the telephone circuit (or alternative system approved under 5.2 above) and will provide to TVA any information necessary for the exercise

of such access. Distributor further grants to TVA access to the metering facilities for the purpose of confirmation of the metering data being received by telephone. The use of the telephone circuit and access to the metering data will be coordinated by TVA's and Distributor's operating representatives to ensure unrestricted access by TVA for data retrieval purposes during such periods as specified by TVA.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives, as of the day and year first above written.

CITY OF DECATUR, ALABAMA

By _____
Title: _____

TENNESSEE VALLEY AUTHORITY

By _____
Senior Manager
Power Contracts