

Black Hills/Colorado Electric Utility Company, LP
Non-Intermittent Resource Solicitation
Questions and Answers

Q&A Released on 5/21/09

Q052109-1. Please confirm that, after award and prior to execution of a PPA, the successful Bidder may transfer the Project to an affiliate or single purpose entity created to build, own and operate the proposed Project.

A. BH/CO would have to consent to the proposed transfer, determine that it would not negatively impact any of the factors on which the award was made, and the proposed transfer would have to comply with the same terms as found in Article 19 of the BH/CO Model Dispatchable Power Purchase Agreement.

Article 19, Section 19.1 of the BH/CO Model Dispatchable Power Purchase Agreement provides:

Article 19 - Assignment and Other Transfer Restrictions

19.1 No Assignment Without Consent. Except as permitted in this Article 19, neither Party shall assign this PPA or any portion thereof, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided (i) at least thirty (30) Days prior notice of any such assignment shall be given to the other Party; (ii) any assignee shall expressly assume the assignor's obligations hereunder, (iii) no assignment shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform, except as otherwise provided in Section 19.1(B) below; (iii) no assignment shall impair any security given by Seller hereunder; and (iv) before the PPA is assigned by Seller, the assignee must first obtain such approvals as may be required by all applicable regulatory bodies.

(A) Seller's consent shall not be required for an assignment by BH/CO Electric to an Affiliate of BH/CO Electric.

(B) In the event that a permitted assignee of BH/CO Electric has or attains an investment grade unsecured bond rating, Seller shall release BH/CO Electric from its obligations under this PPA if BH/CO Electric requests to be so released by notice to Seller.

(C) BH/CO Electric's consent shall not be required for Seller to assign this PPA for collateral purposes to a Facility Lender. Seller shall notify BH/CO Electric of any such assignment to the Facility Lender no later than thirty (30) Days after the assignment.