STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of	)	
	)	Trading Agreement
The State of Connecticut and	)	and Order No. 8279
	)	
First Light Hydro Generating Company	)	

Whereas, the Commissioner of Environmental Protection ("Commissioner") and First Light Hydro Generating Company ("FLHGC") agree to the use of discrete emission reduction credit ("DERC") trading in accordance with Subsections 22a-174-22(d & j) of the Regulations of Connecticut State Agencies (RCSA) to comply with the nitrogen oxide ("NOx") emissions limits of Subsection 22a-174-22(e) of the RCSA:

A. At the request and with the agreement of FLHGC, the Commissioner finds the following:

1. FLHGC is an exempt wholesale electric generating company with its principal place of business in Hartford, Connecticut. On November 1, 2006 FLHGC purchased from NE Hydro Generating Company one piece of fuel burning equipment, ("peaking unit") at Tunnel Road, Preston, CT. The peaking unit is a combustion turbine unit identified in Table 1 of this Trading Agreement and Order.

Table 1

Facility/ Peaking Unit	Fuel	Allowable Limit (ppmvd)	FLER lbs/MMBtu	Allowable Rate lbs/MMBtu
Tunnel Road Preston-10	other oil	75	0.72	0.29

2. FLHGC's Full Load Emission Rate (FLER) exceeds the NOx allowable emission rate for the peaking unit specified in Section 22a-174-22(e) of the Regulations.

3. Pursuant to Section 22a-174-22(j) of the Regulations, during the non-ozone season, FLHGC intends to acquire and use approved DERCs until May 1, 2010 for the peaking unit. Pursuant to Section 22a-174-22(j) of the Regulations, during the ozone season, FLHGC intends to acquire and use approved DERCs and/or budget emission reduction credits ("BDERCs") until May 1, 2010 for the peaking unit.

B. The Commissioner, in accordance with the provisions of this Trading Agreement and Order, and pursuant to Section 22a-174-22(j) of the Regulations, hereby allows FLHGC to comply with Section 22a-174-22 of the Regulations through use of DERC and/or BDERC trading.

C. With the agreement of FLHGC, the Commissioner, acting under Sections 22a-6, 22a-171, 22a-174, 22a-176, and 22a-177 of the Connecticut General Statutes, orders FLHGC as follows:

1. Upon issuance of this Trading Agreement and Order, at the facility, FLHGC shall comply with Section 22a-174-22 of the Regulations through DERC and/or BDERC trading. Until FLHGC achieves permanent compliance with the emission standard in Section 22a-174-22(e) of the regulation or by May 1, 2010 whichever occurs earlier:

   a. FLHGC shall use approved DERCs and/or BDERCs as required under this Trading Agreement and Order;

   b. FLHGC shall have in its possession sufficient approved DERCs and/or BDERCs to meet applicable NOx emission limits as allowed under this Trading Agreement and Order; and

   c. FLHGC shall comply during operation of the peaking unit with the FLERS shown in Table 1 of this Trading Agreement and Order.

2. <u>DERC and/or BDERC use</u>

   a. Until May 1, 2010, before the first day of each month FLHGC shall have in its possession sufficient approved DERCs and/or BDERCs for the current day for the peaking unit based on the following calculations;

      Before the first day of each month, FLHGC shall estimate DERCs and/or BDERCs required for such month for the peaking unit as follows:

(i) <u>At all times</u>:

Estimated DERCs and/or BDERCs (in tons) use = [((FLER in lbs/MMBtu) – (0.95 x NOx allowable rate in lbs/MMBtu)) x (estimated fuel use in MMBtu)] ÷ 2000 pounds/ton

No later than the twentieth day of each month, FLHGC shall calculate and permanently retire DERCs and/or BDERCs used in the preceding calendar month, as follows:

Actual DERCs and/or BDERCs (in tons) = [((FLER in lbs/MMBtu) – (0.95 x NOx allowable rate in lbs/MMBtu)) x (actual fuel use in MMBtu)] ÷ 2000 pounds/ton

Where:

- NOx allowable rate = allowable limit rate in lbs/MMBtu shown in Table 1 of this Trading Agreement and Order.
- FLER = full load emission rate in lbs/MMBtu as shown in Table 1 of this Trading Agreement and Order.
- Discount (0.95) = 5% design margin applied to the allowable limit rate.

ii) <u>During the ozone season only</u>: No later than December 31st each year, FLHGC shall acquire and permanently retire seven ozone season DERCs and/or BDERCs for every actual ton of excess NOx emitted from the peaking unit during the previous ozone season based upon the actual emissions for each day that Connecticut one hour ozone levels were forecasted to be "moderate to unhealthful", "unhealthful", or "very unhealthful", until such time that the EPA revokes the 1-hour standard. Upon such revocation, FLHGC shall calculate and permanently retire seven ozone season DERCs and/or BDERCs for every actual ton of excess NOx emitted from the peaking unit during such ozone season based upon the actual emissions for each day that Connecticut eight hour ozone levels were forecasted to be "unhealthy for sensitive groups", "unhealthy", or "very unhealthy".

Where:

Actual ton of excess NOx emitted = [((FLER in lbs/MMBtu) – (0.95 x NOx allowable rate in lbs/MMBtu)) x (actual fuel use in MMBtu)] ÷ 2000 pounds/ton

The total actual tons of excess NOx emitted from the peaking unit during forecasted ozone exceedance days shall be multiplied by seven and then rounded to the next greater whole ton, to determine the number of DERCs and/or BDERCs to be permanently retired. This requirement is in addition to the FLHGC's requirement to

estimate excess emissions and subsequent permanent retirement of a sufficient number of approved DERCs and/or BDERCs in accordance with paragraph C.2.a.(i) of this Trading Agreement and Order.

(iii) <u>During the non-ozone season</u>: Until May 1, 2010, from October 1 through April 30, inclusive, each year, the peaking unit shall, in addition to meeting the 24-hour emission limit in Table 22-1 of Section 22a-174-22 of the Regulations, meet a non-ozone season emission limit of 0.15 lb/MMBtu. Prior to October 1, 2009, FLHGC shall estimate and acquire the amount of DERCs or allowances required for such non-ozone season needed to comply with Section 22a-174-22(e)(3) of the Regulations as follows:

Estimated DERCs (tons) use = [Estimated fuel use in MMBtu from October 1 through April 30 x (allowable emission rate in lbs/MMBtu – (0.95 x 0.15 lb/MMBtu))] ÷ 2000 lbs/ton

b. No later than May 31 of 2009 and 2010, in addition to the DERCs retired pursuant to paragraph C.2.a. of this Trading Agreement and Order, FLHGC shall calculate and permanently retire DERCs used in the preceding non-ozone season as follows:

Actual DERCs (tons) used = [Actual fuel use in MMBtu from October 1 through April 30 x (allowable emission rate in lbs/MMBtu – (0.95 x 0.15 lb/MMBtu))] ÷ 2000 lbs/ton

3. BDERCs are subject to all DERC requirements set forth in this Trading Agreement and Order except as expressly indicated. BDERCs shall only be used by other NOx budget program sources located in Connecticut. BDERCs shall only be used to offset ozone season excess emissions, and shall not be used for compliance during the non-ozone season. BDERCs generated during a given year shall only be used through the following ozone season.

4. FLHGC shall make and keep records of: daily fuel use and fuel type; excess NOx emissions; the number of DERCs and/or BDERCs in its possession, created, purchased and used (by serial number if assigned) each month in accordance with the appropriate emission rates and limits in this Trading Agreement and Order; the number of DERCs and/or BDERCs used during the ozone season, and DERCs and/or Allowances used during the non-ozone season (the remainder of the year); during the ozone season, the ozone classification as forecasted by the Commissioner on the previous day; as well as documentation attesting to the fact that approved DERCs and/or BDERCs used during the ozone season were generated during the ozone season. Generator certification of

this fact shall be sufficient. FLHGC shall maintain and submit such records to the Commissioner in accordance with Section 22a-174-22 of the Regulations.

5. Record Keeping. FLHGC shall retain records and supporting documentation as described in this Trading Agreement and Order for a minimum of five years, commencing on the date such records were created. FLHGC shall provide the records specified above to the Commissioner within thirty (30) days of receipt of a written request from the Commissioner.

6. Annual Emission Statement. No later than March 1 for the previous calendar year and July 30, for the October through April time period, of every year after issuance of this Trading Agreement and Order, FLHGC shall provide to the Commissioner, a record of each sale or other transfer, and use of any and all of the DERCs and/or BDERCs approved within and subsequent to issuance of this Trading Agreement and Order until all such DERCs and/or BDERCs have been used or are no longer in FLHGC's possession. FLHGC shall also include actual NOx emissions from the peaking unit and the amount of all DERCs and/or BDERCs used (including serial numbers (if assigned) and approved DERCs and/or BDERCs generated and/or purchased from other facilities), generated and/or approved for the previous calendar year and October through April time period. These reports shall be on a form prescribed by the Commissioner and shall be in monthly increments, and by ozone and non-ozone seasons.

7. Allowance Use. Pursuant to Section 22a-174-22(d)(3) of the Regulations, FLHGC may use NOx allowances, until May 1, 2010, for the peaking unit pursuant to Section 22a-174-22(j) of the Regulations to achieve all or a portion of the reductions required by Section 22a-174-22 of the Regulations. Any allowance used for compliance with Section 22a-174-22(e) of the Regulations shall be subject to all other restrictions and/or requirements applicable to DERCs contained in this Trading Agreement and Order;

    a. In order for FLHGC to use NOx allowances, FLHGC shall create a general account or use an existing compliance account or overdraft account in EPA's NOx Allowance Tracking System ("NATS"); and

    b. Each allowance used for compliance with Section 22a-174-22 of the Regulations shall be equivalent to one discrete emission reduction credit. Allowances shall be considered used for compliance with Section 22a-174-22 of the Regulations when they are transferred from the facility's NOx general account in the NATS or the facility's NOx compliance account in the NATS to the CT State NOx Retirement Account (Account ID CT0000000300 in the NATS).

8. DERC Shortfall. At a minimum, DERCs and/or BDERCs required shall be adjusted upwards by 100% if DERCs and/or BDERCs are not in FLHGC's possession for use prior to the first day of each month or applicable season. However, nothing in this Trading Agreement and Order shall affect the Commissioner's authority to institute any proceeding or take any other action to require additional upward adjustment, based on the gravity of any alleged noncompliance or violation of law. FLHGC shall permanently retire the quantity of DERCs and/or BDERCs equivalent to the excess emissions plus a 100% premium within sixty (60) days of FLHGC's discovery of the DERC and/or BDERC shortfall. FLHGC shall certify and report any such DERC and/or BDERC retirement to the Commissioner in accordance with paragraph C.30. of this Trading Agreement and Order.

9. Vintage Restriction. For the purposes of compliance with Section 22a-174-22 of the Regulations, DERCs/allowances shall only remain valid for five (5) calendar years from the year of the generation/allocation of such DERCs/allowances. DERCs/allowances older than five (5) calendar years from their creation/allocation are not valid for use for compliance with Section 22a-174-22 of the Regulations. Notwithstanding the above, DERCs will not be valid for use after May 1, 2010. BDERCs are subject to the vintage restriction provided in paragraph C.3. of this Trading Agreement and Order.

10. FLER Exceedance. Noncompliance with an established FLER shall subject FLHGC to make restitution by matching the quantity of emissions ("true up") caused by the exceedance plus a 100% premium. The true up in tons of DERCs and/or BDERCs shall be equal to the FLER exceedance in lbs/MMBtu, multiplied by the total heat input during the period of noncompliance divided by 2000 lbs/ton. If the period of noncompliance is not known, the time period from the completion of the last/previous Commissioner witnessed emission test through the date the FLER compliance is achieved as approved by the Commissioner shall be used. However, nothing in this Trading Agreement and Order shall affect the Commissioner's authority to institute any proceeding or take any other action to require additional upward adjustment, based on the gravity of any alleged noncompliance or violation of law. FLHGC shall permanently retire DERCs and/or BDERCs calculated in accordance with the above plus a 100% premium within sixty (60) days of FLHGC's discovery of the FLER exceedance. FLHGC shall report any FLER exceedance to the Commissioner in accordance with paragraph C.30. of this Trading Agreement and Order.

11. FLER Modification. FLERs set forth in Table 1 of this Trading Agreement and Order may be modified only after the consent of the Commissioner by written modification of this Trading Agreement and Order.

12. Emissions Testing. Pursuant to Section 22a-174-22(k) of the Regulations, FLHGC shall conduct NOx emission tests of the peaking unit at least once every five years

commencing from the dates of the NOx emission tests for the peaking unit as provided in Table 1 of this Trading Agreement and Order.

13. Extension. No later than May 1, 2010, with respect to the peaking unit, FLHGC shall comply with the requirements of Sections 22a-174-22(d)(1) and 22a-174-22(d)(2)(A) of the Regulations and amendments thereto. There is no assurance that the Commissioner will grant a written extension of this Trading Agreement and Order.

14. Future Compliance Report. On or before September 1, 2009, FLHGC shall submit a report in writing to the Commissioner, as directed in paragraph C.31. of this Trading Agreement and Order, indicating how the facility shall comply with Section 22a-174-22 of the Regulations with respect to the peaking unit on and after May 1, 2010.

15. Full compliance. FLHGC shall not be considered in full compliance with this Trading Agreement and Order until all actions required by this Trading Agreement and Order have been completed as approved and to the Commissioner's satisfaction.

16. Approvals. FLHGC shall use best efforts to submit to the Commissioner all documents required by this Trading Agreement and Order in a complete and approvable form. If the Commissioner notifies FLHGC that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and FLHGC shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Trading Agreement and Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Trading Agreement and Order. Nothing in this paragraph shall excuse noncompliance or delay.

17. Definitions. As used in this Trading Agreement and Order, "Approved DERCs" are those for which the Commissioner has provided written authorization for use in compliance with Section 22a-174-22 of the Regulations; "Commissioner" means the Commissioner or a representative of the Commissioner; "Non-ozone season" means the period from October 1 through April 30 in any given calendar year; "Ozone season" means the period May 1 through September 30 in any given calendar year.

18. Dates. The date of "issuance" of this Trading Agreement and Order is the date the Trading Agreement and Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Trading Agreement and Order shall be the date such document is received by the Commissioner. The date of any notice by the

Commissioner under this Trading Agreement and Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this Trading Agreement and Order, the word "day" as used in this Trading Agreement and Order means calendar day. Any document or action which is required by this Trading Agreement and Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which not a Saturday, Sunday or Connecticut or federal holiday

19. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Trading Agreement and Order shall be signed by FLHGC or, if FLHGC is not an individual, by an individual who is an authorized representative of the Respondent, in accordance with Section 22a-174-2a(a) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and each such individual shall certify in writing as follows:

    "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under Section 53a-157b of the Connecticut General Statutes and any other applicable law."

20. Noncompliance. This Trading Agreement and Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Trading Agreement and Order may subject FLHGC to an injunction and penalties.

21. False statements. Any false statement in any information submitted pursuant to this Trading Agreement and Order is punishable as a criminal offense under Section 53a-157b of the Connecticut General Statutes and any other applicable law.

22. Notice of transfer; liability of FLHGC and others. Until FLHGC has fully complied with this Trading Agreement and Order, FLHGC shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of any of the facilities, the operations, the sites or the businesses which are the subject of this Trading Agreement and Order or after obtaining a new mailing or location addresses. FLHGC's obligations under this Trading Agreement and Order shall not be affected by the passage of title to any property to any other person or municipality.

23. Commissioner's powers. Nothing in this Trading Agreement and Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by FLHGC pursuant to this Trading Agreement and Order have successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require FLHGC to undertake further investigation or further action to prevent or abate violations or pollution.

24. FLHGC's obligations under law. Nothing in this Trading Agreement and Order shall relieve FLHGC of other obligations under applicable federal, state and local law.

25. No assurance by Commissioner. No provision of this Trading Agreement and Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by FLHGC pursuant to this Trading Agreement and Order will result in compliance or prevent or abate pollution.

26. Access to facility. Any representative of the Department of Environmental Protection may enter any of these facilities without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Trading Agreement and Order.

27. No effect on rights of other persons. This Trading Agreement and Order neither creates nor affects any rights of persons or municipalities that are not parties to this Trading Agreement and Order.

28. No Creation of Property Rights. This Trading Agreement and Order does not create any property rights with respect to these DERCs and/or BDERCs.

29. Notice to Commissioner of changes. Within fifteen (15) days of the date FLHGC becomes aware of a change in any information submitted to the Commissioner under this Trading Agreement and Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, FLHGC shall submit the correct or omitted information to the Commissioner.

30. Notification of noncompliance. In the event that FLHGC becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Trading Agreement and Order or of any document required hereunder, FLHGC shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or,

if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, FLHGC shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and FLHGC shall comply with any dates which may be approved in writing by the Commissioner. Notification by FLHGC shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

31. Submission of documents. Any document required to be submitted to the Commissioner under this Trading Agreement and Order shall, unless otherwise specified in this Trading Agreement and Order or in writing by the Commissioner, be directed to:

Department of Environmental Protection
Bureau of Air Management
Engineering and Enforcement Division
Emissions and Credit Trading Section
79 Elm Street
Hartford, CT 06106

FLHGC consents to the issuance of this Trading Agreement and Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Trading Agreement and Order and to legally bind FLHGC to the terms and conditions of the Trading Agreement and Order.

First Light Hydro Generating Company

Signature: James A Ginnetti

Name: James A. Ginnetti

Title: Vice President

Date: 4/20/09

Issued as a final order of the Commissioner of Environmental Protection on

Gary S. Rose

Gary S. Rose
Director

04-28-2009

Date

CITY OF PRESTON LAND RECORDS
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