



**Department of Energy**  
Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

**AUTHENTICATED**

Contract No. 95MS99054

October 27, 1995

Mr. Jack Snyder  
Elf Atochem North America, Inc.  
6400 N.W. Front Avenue  
Portland, OR 97210

Dear Mr. Snyder:

The Bonneville Power Administration (BPA) proposes to sell, pursuant to the Bonneville Project Act (16 U.S.C. 832) and the Federal Columbia River Transmission System Act (16 U.S.C. 838), amounts of Surplus Firm Power to Elf Atochem North America, Inc., (Atochem or Industry) pursuant to the following:

1. Pursuant to a Waiver and Release signed by the parties on April 5, 1995, Contract No. 95MS-94741, and subsequent Industrial Market Energy (IME) Agreement implementing the Waiver and Release, a portion of Atochem's First Quartile Load is not currently required to be served under its Power Sales Contract, Contract No. DE-MS79-81BP90355.
2. BPA is authorized by law to market electric power generated at various Federal hydroelectric projects in the Region or acquired from other resources, and to enter into agreements to carry out such authority.

Now, therefore, the parties hereto agree as follows:

This agreement amends the Power Sales Contract, Contract No. DE-MS79-81BP90355, to the extent provided herein. The terms of the Wholesale Surplus Firm Power Rate Schedule SP-93, General Rate Schedule Provisions (GRSPs), and the General Contract Provisions attached to Atochem's Power Sales Contract shall apply to this agreement, Contract No. 95MS-99054 (Agreement).

1. **Term**

The term of this Agreement shall be 2400 hours September 30, 1995, through 2400 hours September 30, 1996, unless replaced earlier by a separate surplus purchase and sale agreement between the parties. All obligations created hereunder shall remain in effect until satisfied.

2. **Definitions**

**Open Market Portion of the First Quartile Load:** Shall mean the specific Industry amounts described as "First Year Allowable Displaced Purchases" in the Waiver and Release agreement.

**Idled Capacity:** Shall mean a decrease in a facility's product output that results in a reduction or elimination of energy deliveries to the facility.

**General Transmission (IR) Agreement:** Shall mean the General Transmission Agreement, Contract No. DE-MS79-BP94770, between BPA and Atochem for the transmission of power, energy, or other energy products for delivery to customer's facilities.

**Industrial Market Energy (IME):** Shall mean energy purchased on the open market pursuant to the terms of the IME Agreement to replace 1981 Power Sales Contract Industrial Firm Power. Within the context of this agreement, IME supplied by BPA is Surplus Firm Power.

**Industrial Market Energy (IME) Agreement:** Shall mean the Agreement between BPA and the Industry to implement the Waiver and Release through the purchase of energy to serve a specified portion of the Industry's First Quartile Load.

**Industrial Market Energy (IME) Allocation:** Shall mean the pro rata share of the "First Year Allowable Displaced Purchases" as described in the Waiver and Release Agreement, that the Industry is actually allocated each month. The Industry's IME Allocation may change each month pursuant to Sections 4 of the IME Agreement.

Industrial Market Energy (IME) Entitlement: Shall mean the Industry's maximum share, considering its historical load, of the 250 MW aggregate limit for "First Year Allowable Displaced Purchases" established by BPA for the total of all Industries as a whole in the Waiver and Release Agreement. The Industry's IME Entitlement shall remain constant throughout the term of this Agreement. Atochem's IME Entitlement is 6.09 Megawatts (MWs) per hour.

Broker: Shall mean Direct Service Industries (DSI) Inc., acting as an Agent in the Industry's behalf.

For the purposes of this Agreement, all capitalized terms that are not defined herein shall have the same definition as in the Power Sales Contract, as noted above.

**3. Amendments**

Any of the terms and conditions of this Agreement may be amended by mutual agreement of the parties. Any changes shall be documented in writing.

**4. Point of Delivery**

Surplus Firm Power deliveries shall be made at the points of delivery provided in the Power Sales Contract unless otherwise agreed.

**5. Supply of Firm Energy**

- a. BPA shall supply to Atochem and Atochem shall accept delivery of Surplus Firm Power in an amount equal to Atochem's IME Allocation as such amount may subsequently be curtailed in accordance with Section 5(b) of the IME Agreement. Except as otherwise agreed, BPA shall deliver Surplus Firm Power at a 100 percent load factor.
- b. BPA shall make available on each hour, and Atochem shall accept delivery of the Surplus Firm Power pursuant to a mutually agreed upon delivery schedule during the term of this Agreement in accordance with the terms of the SP-93 rate schedule, the 1993 GRSPs, and this Agreement.

- c. Atochem agrees to a take or pay obligation for the remainder of the term of this contract of 6.09 MWs per hour (equal to its IME Entitlement) for all months except for November 1995.

**6. Remarketability**

- a. Atochem may not curtail the BPA delivered IME for the purpose of accepting another purchase agreement from another supplier or another BPA offer.
- b. In the event that Atochem idles capacity and curtails energy use, and provides BPA with a thirty-day written notice, BPA will, upon Atochem's request, attempt to remarket all or a portion of the power Atochem is obligated to purchase under this Agreement. BPA will remarket the power for a fee of 5% of the remarket price per megawatt-hour (MWh) multiplied by the total scheduled MWhs of remarketed energy. BPA will make best efforts to remarket power such that the net sum of the remarket price less the sum of the contract price, the remarketing fee, and any transmission cost is greater than or equal to zero. If the Net Sum is less than zero, then Atochem must pay BPA the amount by which the net sum is less than zero. If the Net Sum is greater than zero, then Bonneville must pay Atochem the amount by which the Net Sum is greater than zero.

**7. Price of Energy**

Atochem agrees to pay BPA as set forth in the demand and energy schedule below:

<b>ENERGY &amp; DEMAND</b>		
	<b>DEMAND CHARGE</b>	<b>ENERGY CHARGE</b>
	<b>\$ Per</b>	<b>Mills Per</b>
<b>Month</b>	<b>Kilowatt Month</b>	<b>Kilowatt Hour</b>
Oct-95	3.50	18.00
Nov-95	3.50	18.00
Dec-95	3.50	17.50
Jan-96	4.00	16.00
Feb-96	3.50	15.00
Mar-96	3.25	13.50
Apr-96	3.00	11.00
May-96	3.00	10.00
Jun-96	3.00	10.00
Jul-96	4.00	12.00
Aug-96	4.00	17.00
Sep-96	3.75	18.50
Ann Av.	3.50	14.71

There are no other charges for the delivery of such energy during the term of this Agreement. BPA agrees to waive all administrative charges provided for in Section 6(b) of the IME Agreement for the transactions covered by this Agreement.

**8. Interruption of Surplus Firm Power**

- a. During the term of this Agreement, BPA may restrict deliveries consistent with the provisions of section 16 of the offered General Transmission (IR) Agreement.
- b. If an Uncontrollable Force or event (Event) described in the Uncontrollable Forces or Continuity of Service section(s) (sections 13 and 14) of the General Contract Provisions of the Power Sales Contract prevents or interrupts either party from performing herein, both parties shall be excused from performance (including

Atochem's take-or-pay obligation) to the extent that the Uncontrollable Force or Event prevents or interrupts such performance for the duration of such Uncontrollable Force or Event, and for the period required to restore the affected party's operations to the condition existing prior to the occurrence thereof.

**9. Billing and Payment**

- a. Atochem shall be obligated to: 1) Take delivery of the agreed upon amounts of Surplus Firm Power and pay for such power, or 2) Provide written notice to BPA to remarket the power per the terms of section 6(b), or 3) Refuse delivery of all or any part of the power, but pay BPA for the Surplus Firm Power (herein referred to as the "Take or Pay" obligation).
- b. The energy and demand price components per Section 7 are subject to a minimum purchase requirement on a "Take or Pay" basis. The Demand Charge shall be "Take or Pay" for all monthly IME Allocations of Surplus Firm Power (Demand) as outlined in Sections 4(b)(3) of the IME Agreement. The Energy Charge shall be "Take or Pay" for the monthly IME Allocated Surplus Firm Power (Energy) multiplied by a load factor of 0.97.
- c. Atochem shall pay BPA for Surplus Firm Power sold hereunder as billed on its monthly power bill from BPA pursuant to Section VI. G. of the GRSPs.
- d. Atochem shall pay BPA for remarketing of Surplus Firm Power per the terms of section 6(b). BPA will credit the Industry's monthly power bill from BPA for any net proceeds from remarketing power purchased under this Agreement according to the terms of section 6(b).
- e. Notwithstanding any other terms of this Agreement, BPA's obligation to deliver and Atochem's "Take or Pay" obligation for Surplus Firm Power deliveries sold to Atochem under this Agreement shall be waived for the duration of any BPA interruption of Surplus Firm Power.

- f. Any load above requested Operating Level will be billed with normal billing procedures.

**10. Disclaimer**

Except as specifically provided herein, nothing in this Agreement shall affect the rights or obligations of either BPA or Atochem under other contracts and agreements.

If the above accurately reflects your understanding of our agreement, please indicate your approval by signing three originals of the Agreement, and returning two originals to BPA. The remaining original is for your files.

Sincerely,

**/S/ SYDNEY D. BERWAGER**

Sydney D. Berwager  
Senior Account Executive

ACCEPTED:

ELF ATOCHEM NORTH AMERICA, INC.

Name **/S/ GENE SPINA**  
*(Print/Type)*

Title **Manufacturing Manager**

Date **September 27, 1995**

HFrazier:SBerwager:5879:10/26/95 (YHDF1-SH-700-W:\DSIGRP\TOPQRTLE\AT99054B.DOC)

cc:

S. Jensen Fewel -LP	S. Larson - LP	T. Caine -MGHS
D. Dawson -MGHS	G. Arp - MGHU	D. Barton -MGHU
A. Bolas - MGHU	E. Carlson - MGHU	B. Denny - MGHU
D. DeWitt - MGHU	K. Hagin - MGHU	F. Halpin - MGHU
J. Ji - MGHU	K. Johnson - MGHU	S. Scheel - MGHU
A. Schuff - MGHU	R. Swartzbacker - MGHU	M. Felkel -MGHV
J. McNeil-Keister -MGHV	C. Westbrook - MGHV	B. Berry -MGHW
H. Black -MGHW	J. Larsen -MGHW	Y. Lee - MGHW
J. Anderson -MGS	E. Bleifuss -MGS	H. Frazier - MGS
T. Larson - MGS	G. Smith - MGS	T. Smith - MGS
A. Burns - MPB	D. Gerhardt - MPC	C. Meyer - MPC
A. Paschke - MPC	R. Itami - MPD	P. Norman -MPE
S. Oliver - MPG	S. Smith - MPS	H. Stevens - MPSD
V. Gonzales Wilkie - MPSI	R. Rogers - MPSM	D. Amonsens -MPSS
S. Lee - MPSW	G. Eskridge - SB/BOISE	W. Leonard - SFR
D. Jones - SFR	G. Miles -SFR	S. Cooksey - SFS
D. Metcalf - SH-700	T. Noguchi - SH-700	S. Berwager - SH-700
G. Carter - SH-700	K. Hustad - SK	F. Rettenmund - SKK/SPOKANE
M. Nelson - ST	P. Blood - STO/OLYMPIA	C. Forman - STO\OLYMPIA
R. Bennett - SV	A. Perez - SVE/EUGENE	D. Watkins -TOT-DITT2

Official File - PS (PM-11-14)