

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>Alcoa Power Generating Inc.</b>	)	<b>Project No. 2197-____</b>
<b>Cube Yadkin Generation LLC</b>	)	

**APPLICATION FOR APPROVAL OF TRANSFER OF LICENSE,  
SUBSTITUTION OF APPLICANT, AND  
REQUEST FOR EXPEDITED CONSIDERATION**

Pursuant to Section 8 of the Federal Power Act (FPA), as amended, 16 U.S.C. § 801 (2012), and Part 9 of the regulations of the Federal Energy Regulatory Commission (Commission or FERC), 18 C.F.R. Part 9 (2016), Alcoa Power Generating Inc. (APGI), licensee for the Yadkin Project, FERC Project No. 2197 (Yadkin Project or Project), and Cube Yadkin Generation LLC (Cube Yadkin, and together with APGI, Applicants), hereby jointly and severally submit this Application for Approval of Transfer of License (Application) from APGI to Cube Yadkin. As discussed below, Applicants also request expedited consideration of this Application to meet the closing date set forth in the acquisition agreement.

The Yadkin Project is an approximately 212 MW hydroelectric project located on the Yadkin River in Stanly, Montgomery, Davidson, and Rowan Counties, North Carolina. It consists of four individual developments, each with a dam and reservoir: Falls, Narrows, Tuckertown, and High Rock, located at river miles 234, 237, 244, and 253, respectively. The Commission originally granted the Yadkin Project a 50-year license in 1958.<sup>1</sup> On April 25, 2006, APGI filed an application for a new license for the Project. APGI filed a comprehensive Relicensing Settlement Agreement on May 7,

---

<sup>1</sup> *Carolina Aluminum Co.*, 19 FPC 704 (1958).

2007,<sup>2</sup> and on October 23, 2015, the North Carolina Department of Environmental Quality issued a water quality certification for the Yadkin Project under Section 401 of the Clean Water Act. APCI's relicensing application remains pending before the Commission. Applicants request that, upon filing of the instruments of conveyance and executed copies of the acceptance certificate by Cube Yadkin, the Commission substitute Cube Yadkin as the applicant for the pending relicensing application for the Yadkin Project.

Applicants propose to transfer the Yadkin Project from APCI to Cube Yadkin, an affiliate of Cube Hydro Partners, LLC (Cube Hydro). As described below, Cube Yadkin is part of an organization that includes well-financed, experienced owners and operators of numerous FERC-jurisdictional hydroelectric projects in the eastern United States. The transfer of the license is thus in the public interest, and Applicants request expedited Commission approval of the request to transfer the license.

## **I. INFORMATION REQUIRED BY PART 9 OF THE REGULATIONS**

Part 9 of the Commission's regulations requires an application for approval of transfer of license to contain certain information, statements, and verifications in a form that conforms to the requirements of Section 131.20 of the Commission's regulations, 18 C.F.R. § 131.20, and separately requires such application to set forth, in appropriate detail, the qualifications of the transferees to hold the license and to operate the licensed projects. Each of these requirements is addressed below.

1. Alcoa Power Generating, Inc. (Transferor), licensee under the license for Yadkin Project, FERC Project No. 2197, issued by the Commission on May 1, 1958, as

---

<sup>2</sup> On July 11, 2016, APCI notified the parties to the Relicensing Settlement Agreement that Cube Yadkin would assume the responsibilities for the terms, conditions and obligations of APCI under the Relicensing Settlement Agreement following the proposed transfer, once the new license is issued.

well as successive annual licenses issued after the original license expired on April 30, 2008, and

2. Cube Yadkin Generation LLC (Transferee),
3. Hereby jointly and severally apply, pursuant to Sections 9.1 through 9.3, Section 4.32, and Section 131.20 of the Commission's regulations, for written approval by the Commission of the transfer of the license for the Yadkin Project, FERC Project No. 2197, from APCI to Cube Yadkin, and further request that the instrument of such approval by the Commission be made effective as of the date of conveyance of the project properties. In support thereof, Applicants state as follows:
4. Cube Yadkin is a limited liability company, organized under the laws of the State of Delaware, with authority to do business in the State of North Carolina; copies of its certificate of formation, limited liability company agreement, with all amendments of each to date, and initial resolutions are submitted herewith as Exhibits A-1 through A-3, and are hereby incorporated herein and made a part hereof.
5. As evidence of its compliance with all applicable state laws as required by Section 9(a)(2) of the FPA, Cube Yadkin verifies that it is and will continue to be in compliance with all applicable state laws. If and when the Commission shall have given its approval to the proposed transfer, APCI will transfer to Cube Yadkin, and Cube Yadkin will accept, the obligations of the water quality certification issued by the North Carolina Department of Environmental Quality for the Project.
6. Cube Yadkin will submit certified copies of all instruments of conveyance whereby title to the Yadkin Project properties is conveyed to it, upon completion of such conveyance, if and when the Commission shall have given its approval to the proposed transfer.
7. If and when the Commission shall have given its approval to the proposed transfer, and upon completion of conveyance of the Yadkin Project properties to Cube Yadkin, APCI will deliver to Cube Yadkin and Cube Yadkin will accept and permanently retain, all license instruments and all maps, plans, specifications, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating to the original Project and to all additions thereto and betterments thereof.
8. APCI certifies that it has fully complied with the terms and conditions of its license, as amended, and that it has fully satisfied and discharged all of its liabilities and obligations thereunder to the date of this Application, and obligates itself to pay all annual charges accrued under the license to the date of transfer.

9. Contingent upon the final written approval by the Commission of the transfer of the license, Cube Yadkin accepts all the terms and conditions of the license, as amended, and the FPA, and agrees to be bound thereby to the same extent as though it were the original licensee thereunder.
10. The name, title, post office address, and other contact information of the person or persons to whom correspondence in regard to this Application shall be addressed are as follows:

For APGI:

Coralyn M. Benhart, Esq.  
Alcoa Inc.  
201 Isabella Street, 6E04  
Pittsburgh, PA 15212-5858  
Tel: (412) 553-4237  
[Coralyn.Benhart@alcoa.com](mailto:Coralyn.Benhart@alcoa.com)

David R. Poe  
Bracewell LLP  
2001 M Street, NW  
Suite 900  
Washington, DC 20036  
Tel: (202) 828-5800  
Fax: (800) 404-3970  
[dave.poe@bracewelllaw.com](mailto:dave.poe@bracewelllaw.com)

For Cube Yadkin:

Eli W.L. Hopson  
Cube Hydro Partners, LLC  
2 Bethesda Metro Center  
Suite 1330  
Bethesda, MD 20814  
Tel: (240) 482-2714  
[ehopson@cubehydro.com](mailto:ehopson@cubehydro.com)

Julia S. Wood  
Sharon L. White  
Van Ness Feldman, LLP  
1050 Thomas Jefferson Street, NW  
Seventh Floor  
Washington, DC 20007  
Tel: (202) 298-1800  
[jsw@vnf.com](mailto:jsw@vnf.com)  
[slw@vnf.com](mailto:slw@vnf.com)

## **II. TRANSFER OF THE LICENSE IS IN THE PUBLIC INTEREST**

Cube Yadkin is legally, technically, and financially qualified to hold the Project license.

Cube Yadkin was formed for the sole purpose of owning and operating the Project. It is authorized to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of a license, and is therefore legally qualified to hold the license for the Project.

Cube Yadkin is technically qualified to be a licensee. Currently, Cube Hydro affiliates own and operate 14 FERC-licensed hydroelectric projects with a total capacity of approximately 126 MW and 470,000 MWh annually. More specifically, the following Cube Hydro affiliates own hydroelectric facilities in the United States: All Dams Generation, LLC (Allegheny Lock & Dam Nos. 5 and 6, Project Nos. 3494 and 3671); Lake Lynn Generation, LLC (Lake Lynn Project No. 2459); Little Falls Hydroelectric Associates (Little Falls Project No. 3509); Lyonsdale Associates, LLC (Lyonsdale Project No. 3255); Mahoning Creek Hydroelectric Company, LLC (Mahoning Creek Project No. 12555); PE Hydro Generation, LLC (Millville Project No. 2343, Warren Project No. 2391, Luray Project No. 2425, Shenandoah Project No. 2509, Potomac Dam No. 4 Project No. 2516, Newport Project No. 2425, and Potomac Dam No. 5 Project No. 2517); and York Haven Power Company (York Haven Project No. 1888). These affiliates are experienced hydroelectric plant operators and licensees in good standing with the Commission. Cube Yadkin, therefore, is affiliated with numerous companies involved in the operation and maintenance of hydroelectric projects and will have ready access to their expertise. Moreover, numerous APGI employees that have experience

with the Yadkin Project will become employees of Cube Yadkin, or an affiliate of Cube Yadkin, as part of the proposed transaction, ensuring that Cube Yadkin along with its expertise in hydroelectric generation will post-closing retain the specific expertise of the employees operating the Yadkin Project.

Cube Yadkin is financially qualified to be a licensee. Cube Yadkin is a portfolio company of I Squared Capital, an independent private equity firm focusing on global infrastructure investments in energy, utilities, and transport in North American, Europe, and select high growth economies. Thus, Cube Yadkin is affiliated with a financially secure company, ensuring that it will meet its financial obligations as a licensee.

For these reasons, Cube Yadkin is fully qualified to own and operate the Yadkin Project, as required by the FPA and the Commission's regulations.

Cube Yadkin agrees to accept all the terms and conditions of the Yadkin Project's license, and to be bound by the license, as if it were the original licensee. It commits to operating and maintaining the Yadkin Project as licensee in accordance with the license, FERC regulations and directives, and the FPA. Therefore, the Applicants respectfully request that the Commission find the transfer of the license to be in the public interest.

### **III. REQUEST FOR EXPEDITED CONSIDERATION**

Applicants request expedited treatment of this Application. An acquisition agreement was executed for the Yadkin Project, among other APGI assets, on July 1, 2016, and APGI and Cube Yadkin are submitting to the Commission an application for authorization of jurisdictional facilities pursuant to Section 203(a)(1) of the FPA. The acquisition agreement establishes a closing date on or before November 1, 2016. Therefore, in order to ensure timely transfer of the assets set forth in the acquisition

agreement, Applicants request the Commission to act on this Application by September 30, 2016.

#### **IV. CONCLUSION**

As demonstrated above, Cube Yadkin is legally, technically, and financially qualified to hold the license for, and to operate, the Yadkin Project. In addition, Cube Yadkin has agreed to accept all of the terms and conditions of the license, to be bound by the license as if it were the original licensee, and to operate and maintain the Project in accordance with the license and regulations and directives of the Commission under the FPA.

WHEREFORE, for the foregoing reasons, Applicants respectfully request that the Commission approve the transfer of license requested herein by September 30, 2016.

Respectfully submitted,

David R. Poe  
Bracewell LLP  
2001 M Street, NW  
Suite 900  
Washington, DC 20036  
Tel: (202) 828-5800  
[dave.poe@bracewelllaw.com](mailto:dave.poe@bracewelllaw.com)

*Counsel for Alcoa Power Generating, Inc.*

/s/ Julia S. Wood  
Julia S. Wood  
Sharon L. White  
Van Ness Feldman, LLP  
1050 Thomas Jefferson Street, NW  
Seventh Floor  
Washington, DC 20007  
Tel: (202) 298-1800  
[jsw@vnf.com](mailto:jsw@vnf.com)  
[slw@vnf.com](mailto:slw@vnf.com)  
*Counsel for Cube Yadkin Generation LLC*

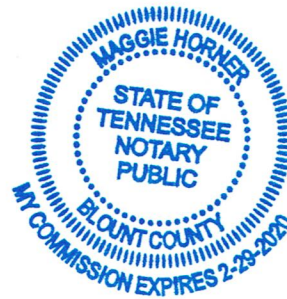
DATED: July 25, 2016

IN WITNESS WHEREOF, Alcoa Power Generating Inc. (Transferor) has caused its name to be hereunto signed and its corporate seal to be hereunto affixed by E. Ray Barham, Vice President of Alcoa Power Generating Inc. and its Yadkin Relicensing Manager, this 23 day of July, 2016.

Alcoa Power Generating Inc.

By: E. Ray Barham  
E. Ray Barham  
Vice President  
Yadkin Relicensing Manager

Alcoa Power Generating Inc.



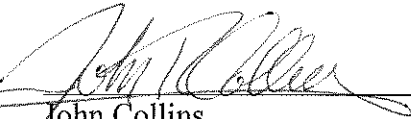
Subscribed and sworn to before me in my  
Presence, this 23 day of July  
2016, a Notary Public in and for the  
County of Blount State of TN  
Maggie Horner  
(Signature) Notary Public  
My commission expires Feb 28, 2020

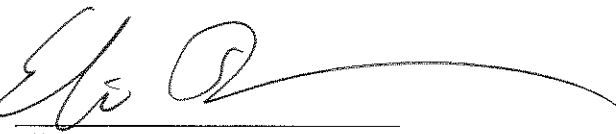
Attest: Maggie Horner



IN WITNESS WHEREOF, Cube Yadkin Generation LLC (Transferee) has caused its name to be hereunto signed by John Collins, its President, and its corporate seal to be hereunto affixed by Eli Hopson, its Secretary, this 25th day of July, 2016.

Cube Yadkin Generation LLC

By:   
John Collins

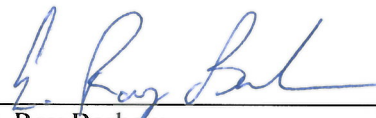
Attest:   
Eli Hopson

**VERIFICATION**

State of Tennessee

County of Blount

E. Ray Barham, being duly sworn deposes and says: That he is the Yadkin Relicensing Manager of Alcoa Power Generating Inc. (APGI), an applicant for approval of transfer of license; that he has read the foregoing application and knows the contents thereof; and that the statements contained therein with respect to APGI are true to the best of his knowledge and belief.

  
\_\_\_\_\_  
E. Ray Barham

Subscribed and sworn to before me, a notary public of the State of Tennessee,  
this 21 day of July, 2016.



 Gina D. Wynn  
Notary Public

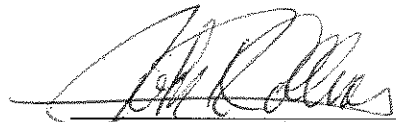
My Commission expires June 26, 2018

**VERIFICATION**

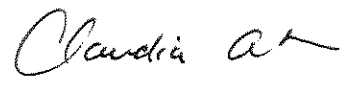
State of Maryland

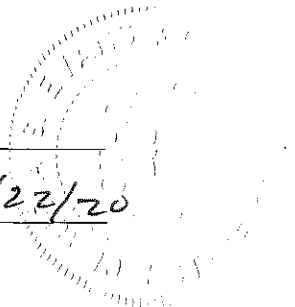
County of Montgomery

John Collins, being duly sworn deposes and says: That he is the President of Cube  
Yadkin Generation LLC, applicant for approval of transfer of license; that he has read the  
foregoing application and knows the contents thereof; and that the same are true to the  
best of his knowledge and belief.

  
\_\_\_\_\_  
John Collins

Subscribed and sworn to before me, a notary public of the State of Maryland,  
this 25th day of July, 2016.

  
\_\_\_\_\_  
Notary Public  
My Commission expires 4/22/20



**Exhibit A-1**

**Certificate of Formation of Cube Yadkin Generation LLC**

# Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF  
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT  
COPY OF THE CERTIFICATE OF FORMATION OF "CUBE YADKIN GENERATION  
LLC", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF JULY, A.D.  
2016, AT 6:40 O`CLOCK P.M.*

  
Jeffrey W. Bullock, Secretary of State

6098600 8100  
SR# 20164940264

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 202669749  
Date: 07-15-16

**CERTIFICATE OF FORMATION  
OF  
CUBE YADKIN GENERATION LLC**


State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 06:40 PM 07/15/2016  
FILED 06:40 PM 07/15/2016  
SR 20164940264 - File Number 6098600

This Certificate of Formation of Cube Yadkin Generation LLC (the "Company"), dated as of July 15, 2016 is being duly executed and filed by the undersigned, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del C. § 18-101, et. seq.).

**FIRST.** The name of the limited liability company formed hereby is Cube Yadkin Generation LLC.

**SECOND.** The address of the registered office of the Company in the State of Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808. The name and address of the registered agent for service of process on the Company in the State of Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808.

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate of Formation as of the date first written above.

By:   
Name: Ronald Schweizer  
Title: Authorized Person

**Exhibit A-2**

**Limited Liability Company Agreement of Cube Yadkin Generation LLC**

**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
CUBE YADKIN GENERATION LLC**

This Limited Liability Company Agreement (this “**Agreement**”) of Cube Yadkin Generation LLC is entered into as of July 18, 2016 by Cube Hydro Carolinas LLC as the sole member (the “**Sole Member**”).

**WHEREAS**, Cube Yadkin Generation LLC was formed by the filing of a Certificate of Formation with the Secretary of the State of Delaware on July 15, 2016 pursuant to and in accordance with the Delaware Limited Liability Company Act, Title 6 of the Delaware Code, Section 18-101 *et seq.* (the “**Act**,”) as amended from time to time.

**NOW, THEREFORE**, the Sole Member agrees as follows:

**1. Name; Certificates; Registered Agent and Registered Office.**

- a. The name of the limited liability company is Cube Yadkin Generation LLC (the “**Company**”). The term “**Members**” shall include the Sole Member and persons admitted as members in accordance with Sections 10 and 12 of this Agreement.
- b. Ronald Schweizer is hereby designated as an “**Authorized Person**” within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of Delaware. Upon the filing of the Certificate of Formation of the Company with the Secretary of State of the State of Delaware, his powers as an Authorized Person ceased, and the Sole Member thereupon became the designated Authorized Persons and shall continue as the designated Authorized Persons within the meaning of the Act. The Sole Member shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in any jurisdiction in which the Company may wish to conduct business.
- c. The address of the registered office of the Company in the State of Delaware is c/o Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware, 19808. The name and address of the registered agent of the Company for service of process on the Company in the State of Delaware are the Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware, 19808.

- 2. Term.** The term of the Company shall be perpetual, unless dissolved in accordance with the Act.
- 3. Purpose.** The Company is being formed for the purpose of engaging in any lawful act or activity for which a limited liability company may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.



**4. Sole Member.** The business addresses of the Sole Member is

I Squared Capital  
410 Park Avenue  
Suite 830  
New York, NY 10022

- 5. Management.** The business and affairs of the Company shall be managed by the Sole Member. The Sole Member has the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including appointing authorized signatories as well as all powers, statutory or otherwise, possessed by a Member under the Act. Notwithstanding anything to the contrary in this Agreement, the Sole Member has the authority to bind the Company and are authorized to execute and deliver any document on behalf of the Company without any vote or consent of any other person or entity.
- 6. Capital Contributions.** The Sole Member has contributed to the Company certain amounts, in the form of cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to render services.
- 7. Additional Contributions.** The Members shall contribute to the Company such additional amounts, as determined by the Members.
- 8. Allocation of Profits and Losses.** The Company's profits and losses shall be allocated in proportion to the capital contributions of the Members.
- 9. Distributions.** Distributions shall be made to the Members at the times and in the aggregate amounts determined by the Members. Such distributions shall be allocated among the Members in the same proportion as their then capital account balances. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not be required to make a distribution to a Member on account of its interest in the Company if such distribution would violate the Act or other applicable law.
- 10. Transfers.** No Member shall, directly or indirectly, sell, transfer, assign, or otherwise dispose of or encumber its interest, in whole or in part, in the Company without the prior written consent of all members, which consent may be given or withheld in the sole and absolute discretion of each Member. Upon the receipt of all Members' consent, pursuant to Section 18-704(a) of the Act, a transferee shall be admitted to the Company as a substituted member ("**Substituted Member**") upon agreement by such transferee to be bound by the terms of this Agreement. A Member shall cease to be a Member when the Member has transferred all such member's interests in the Company to one or more transferees and all such transferees are or become admitted as Substituted Members.

**11. Non-Consensual Transfers.** To the fullest extent permitted by law, any purported transfer of any Member's interest in the Company not in compliance with Section 10 shall be null and void, regardless of any notice provided to the Company, and shall not create any obligation or liability of the Company to the purported transferee, and any person purportedly acquiring any interest in the Company purportedly transferred without the prior, written consent required by Section 10 shall not be entitled to admission to the Company as a Substituted Member.

**12. Admission of Additional Members.** One or more additional Members may be admitted to the Company with the consent of all the Members upon agreement by such additional Members to be bound by this Agreement.

**13. Liability of Members.** The Members shall not have any liability for the obligations or liabilities of the Company, except to the extent provided in the Act.

**14. Exculpation; Indemnification.**

- a. To the fullest extent permitted under the Act, no Member, officer, employee, agent, manager, or representative of the Company or any affiliate of any of the foregoing (exclusive of any collective investment vehicle for which the Company acts as general partner, manager or investment manager) (each, an "**Indemnified Person**") shall be liable to the Company or any Member for any liabilities, obligations, losses, damages, fines, taxes and interest and penalties thereon, claims, demands, actions, suits, proceedings (whether civil, criminal, administrative, investigative or otherwise), costs, expenses and disbursements (including legal and accounting fees and expenses, costs of investigation and sums paid in settlement) of any kind or nature whatsoever, which may be imposed on, incurred by or asserted at any time against such Indemnified Person in any way related to or arising out of this Agreement, the Company or the management, administration, or activities of any Indemnified Person on behalf of the Company ("**Claims and Expenses**") incurred by reason of any action taken or omitted to be taken by such Indemnified Person in any way related to or arising out of this Agreement; *provided*, that the foregoing shall not relieve the Indemnified Person from liability for any claim and expense to the extent that it is determined by a final judgment of a court of competent jurisdiction (from which no further appeal may be taken) to be attributable to such Indemnified Person's bad faith or gross negligence. An Indemnified Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any person (including, without limitation, a representative of a person in which the Company has invested) as to matters the Indemnified Person believes are within such other person's professional or expert competence and who, to the extent applicable, has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of assets,

liabilities, profits or losses or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

- b. To the fullest extent permitted under the Act, the Company shall indemnify, defend and hold harmless each of the Indemnified Persons from and against any and all Claims and Expenses, which may be imposed on, incurred by or asserted at any time against such Indemnified Person in any way related to or arising out of this Agreement, the Company, or the management or administration of the Company or in connection with the business or affairs the Company or the activities of such Indemnified Person on behalf of the Company; *provided*, that no Indemnified Person shall be entitled to indemnification hereunder to the extent it shall have been determined by a final judgment of a court of competent jurisdiction (from which no further appeal may be taken) that the claims and expenses are attributable to such Indemnified Person's bad faith or gross negligence. The right of indemnification provided hereby shall not be exclusive of, and shall not affect, any other rights to which any Indemnified Person may be entitled and nothing contained in this Section 14(b) shall limit any lawful rights to indemnification existing independently of this Section 14(b). To the fullest extent permitted under the Act, the Company shall pay the expenses (including legal fees and expenses and costs of investigation) incurred by such Indemnified Person in defending any proceeding as such expenses are incurred by such Indemnified Person and in advance of the final disposition of such matter.

## **15. Dissolution.**

- a. The Company shall dissolve and its affairs shall be wound up upon the first to occur of the following: (i) the unanimous written consent of the Members, (ii) at any time there are no members of the Company unless the Company is continued in accordance with the Act, or (iii) the entry of a decree of judicial dissolution under Section 18-802 of the Act.
- b. The bankruptcy (as defined at Sections 18-101 and 18-304 of the Act) of a Member shall not cause such Member to cease to be a member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution.
- c. In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act.

**16. Severability of Provisions.** Each provision of this Agreement shall be considered separable, and if, for any reason, any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement that are valid, enforceable and legal.

- 17. Amendments.** This Agreement may not be modified, altered, supplemented or amended except pursuant to a written agreement executed and delivered by the Members.
- 18. Governing Law.** This Agreement shall be governed by, and construed under, the laws of the State of Delaware, all rights and remedies being governed by said laws.
- 19. Sole Benefit of Members.** Except as expressly provided in this Agreement, the provisions of this Agreement are intended solely to benefit the Members and, to the fullest extent permitted by applicable law, shall not be construed as conferring any benefit upon any creditor of the Company (and no such creditor shall be a third-party beneficiary of this Agreement), and no Member shall have any duty or obligation to any creditor of the Company to make any contributions or payments to the Company.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the undersigned, intending to be legally bound hereby, has duly executed this Agreement as of the date set forth above.

**SOLE MEMBER:**

**CUBE HYDRO CAROLINAS LLC**

By: Helix Partners LLC, *its sole member*

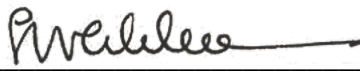
By: Helix HoldCo LLC, *its sole member*

By: ISQ Hydro Aggregator LLC, *its sole member*

By: ISQ Global Infrastructure Fund (S), L.P.,  
ISQ Global Infrastructure Fund (UST), L.P.,  
ISQ Global Infrastructure Pooling, L.P.,  
ISQ Global Infrastructure Pooling (USTE), L.P.,  
ISQ Global Infrastructure Pooling (EU), L.P. and  
ISQ Global Infrastructure Pooling (AU), L.P., *its members*

By: ISQ Global Fund GP, L.P., *its general partner*

By: ISQ Global Fund GPGP, Ltd., *its general partner*

By: \_\_\_\_\_

Name: Sadek Wahba

Title: Director

**Exhibit A-3**

**Initial Resolutions of Cube Yadkin Generation LLC**

**INITIAL RESOLUTIONS FOR  
CUBE YADKIN GENERATION LLC**

Sole Member's Action by Written Consent  
in Lieu of Organizational Meeting

July 18, 2016

The undersigned, being the sole member (the "**Sole Member**") of Cube Yadkin Generation LLC, a Delaware limited liability company (the "**Company**"), hereby adopts the following resolutions and the actions described herein with respect to the Company by written consent (this "**Consent**"), in lieu of holding an organizational meeting, in accordance with the applicable provisions of the Delaware Limited Liability Company Act:

**Certificate of Formation; Actions of Organizer**

**RESOLVED**, that the Certificate of Formation of the Company, filed in the office of the Secretary of State of the State of Delaware on July 15, 2016, is hereby approved, ratified, confirmed and adopted.

**RESOLVED, FURTHER**, that all of the actions taken by the organizer of the Company in connection with the formation of the Company are hereby approved, ratified, confirmed and adopted by and on behalf of the Company, and the organizer is hereby released from any and all further obligations with respect thereto.

**Adoption of LLC Agreement**

**RESOLVED, FURTHER**, that the Limited Liability Company Agreement for the regulation of the affairs of the Company, attached hereto as **Exhibit A** and incorporated herein by reference, is hereby ratified, adopted and approved as the Limited Liability Company Agreement of the Company and shall be filed with the minutes of the Company.

**Uncertificated Interests**

**RESOLVED, FURTHER**, that all membership interests issued, or to be issued, by the Company shall be uncertificated, unless the Sole Member expressly provides otherwise.

**RESOLVED, FURTHER**, that the officers of the Company be, and each hereby is, authorized and empowered to register any membership interests authorized for issuance in book-entry form and to send all notices required by the Delaware Limited Liability Company Act (6 Del.C. §18-101, *et seq.*), as amended from time to time (the "**Act**") upon the issuance or transfer of uncertificated membership interests.

## **Membership Interests**

**RESOLVED, FURTHER**, that the Company be and it hereby is authorized to issue to each of the persons or entities set forth on **Exhibit B** (each, a “**Member**” and collectively, the “**Members**”) the number of membership interests set forth for each such Member, respectively, on **Exhibit B** in exchange for a capital contribution in the amount set forth on **Exhibit B** opposite each such member’s name, such membership interests being evidenced solely by the book-entry notation referred to above, and that upon the making of such capital contribution, such membership interests shall be deemed validly issued, outstanding, fully paid and non-assessable.

## **Authorization to Qualify to do Business**

**RESOLVED, FURTHER**, that for the purpose of authorizing the Company to do business in any jurisdiction in which it is necessary or expedient for the Company to transact business, the officers of the Company be, and each of them hereby is, authorized to appoint and substitute all necessary agents or attorneys for service of process, to designate and change the location of all necessary statutory offices and under the corporate seal, if required, to make and file all necessary certificates, reports, powers of attorney and other instruments as may be required by the laws of such jurisdiction to authorize the Company to transact business therein, and whenever it is expedient for the Company to cease doing business therein and withdraw therefrom, to revoke any appointment of agent or attorney for service of process and to file such certificates, reports, revocations of appointment or surrenders of authority as may be necessary to terminate the authority of the Company to do business in any such jurisdiction.

## **Appointment of Authorized Signatory**

**RESOLVED, FURTHER**, that Ronald Schweizer be appointed as an Authorized Signatory to sign, execute and submit all the papers, letters, agreements, documents, writings, submissions, etc., required for the day-to-day business transactions, operations and correspondence of the Company.

## **Banking Resolutions**

**RESOLVED, FURTHER**, that the Authorized Signatory be, and he or she hereby is, authorized for and on behalf of the Company to designate from time to time one or more banks, trust companies or other banking institutions to act as depository or depositories for the funds of the Company for and during such period as he or she may from time to time deem necessary or desirable in the interests of the Company and to open or close out from time to time accounts in any such depository so selected or re-selected.

**RESOLVED, FURTHER**, that the Authorized Signatory be, and he or she hereby is, authorized and directed, in the name and on behalf of the Company, to take any and all action that he or she may deem necessary or advisable in order to establish



bank accounts from time to time for the efficient conduct of the Company's business.

**RESOLVED, FURTHER**, that (a) the Company be and hereby is authorized to execute and deliver to such banks their customary form of corporate resolutions applicable to any such accounts and to attach copies of such resolutions to this Consent, which resolutions are hereby adopted in the same manner and with the same effect as if set out in full herein and (b) such resolutions shall be in full force and effect and binding upon the Company until they shall have been rescinded and written notice of such rescission shall have been delivered to the bank with which the Company's banking business is then being terminated.

**RESOLVED, FURTHER**, that the Authorized Signatory be, and he or she hereby is, authorized to designate those officers or agents of the Company who may be authorized from time to time to sign checks on any of such bank accounts.

#### **Payment of Organizational Fees**

**RESOLVED, FURTHER**, that the Authorized Signatory be, and he or she hereby is, authorized and directed, for and on behalf of the Company, to pay all charges and expenses incident to or arising out of the incorporation of the Company and to reimburse the persons who have made any disbursements therefor.

**RESOLVED, FURTHER**, that the officers of the Company be, and each of them hereby is, authorized and empowered on behalf of the Company to pay any other such fees and expenses and to do such other acts and things as they may deem necessary or advisable in connection with the carrying out of any of the matters or purposes set forth in the foregoing resolutions.

#### **Application for Taxpayer Identification Number**

**RESOLVED, FURTHER**, that the Authorized Signatory be, and each of them hereby is, authorized to take any action deemed necessary or advisable to obtain an Employer Identification Number from the Internal Revenue Service.

#### **Books and Records**

**RESOLVED, FURTHER**, that the Authorized Signatory be, and he or she hereby is, authorized and directed to procure all appropriate corporate books, books of account and stock books that may be deemed necessary or appropriate in connection with the business of this Company.

#### **General**

**RESOLVED, FURTHER**, that the officers of the Company be, and each of them hereby is, authorized, empowered and directed, for and on behalf of the Company, to take any and all actions, to negotiate for and enter into agreements and amendments to agreements, to perform all such acts and things, to execute, file,

deliver or record in the name and on behalf of the Company, all such certificates, instruments, agreements or other documents, and to make all such payments as they, in their judgment, or in the judgment of any one or more of them, may deem necessary, advisable or appropriate in order to carry out the purpose and intent of, or consummate the transactions contemplated by, the foregoing resolutions and/or all of the transactions contemplated therein or thereby, the authorization therefor to be conclusively evidenced by the taking of such action or the execution and delivery of such certificates, instruments, agreements or documents.

**RESOLVED, FURTHER**, that any and all actions heretofore taken by any Member, officer or authorized person of the Company in connection with the transactions contemplated by the foregoing resolutions be, and hereby are, adopted, ratified, confirmed and approved in all respects as the acts and deeds of the Company.

The Secretary of the Company is hereby directed to file a signed copy of this Consent in the minute book of the Company.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, undersigned, being the Sole Member of the Company, has executed this Consent as of the date first above written.

**CUBE HYDRO CAROLINAS LLC**

By: Helix Partners LLC, *its sole member*


By: Helix HoldCo LLC, *its sole member*

By: ISQ Hydro Aggregator LLC, *its sole member*

By: ISQ Global Infrastructure Fund (S), L.P.,  
ISQ Global Infrastructure Fund (UST), L.P.,  
ISQ Global Infrastructure Pooling, L.P.,  
ISQ Global Infrastructure Pooling (USTE), L.P.,  
ISQ Global Infrastructure Pooling (EU), L.P. *and*  
ISQ Global Infrastructure Pooling (AU), L.P.,

By: ISQ Global Fund GP, L.P., *their general partner*

By: ISQ Global Fund GPGP, Ltd., *its general partner*

By:   
\_\_\_\_\_  
Sadek Wahba  
Director

**EXHIBIT A**

**Limited Liability Company Agreement**

See attached.

## **EXHIBIT B**

### **Membership Interests**

<b>Member</b>	<b>Agreed Value of Capital Contribution</b>	<b>Membership Interests</b>
Cube Hydro Carolinas LLC	\$1,000	100%

Kimberly D. Bose  
Secretary

**CERTIFICATE OF SERVICE**

Pursuant to Rule 2010 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 25th day of July, 2016.

/s/ Mealear Tauch  
Mealear Tauch  
Van Ness Feldman, LLP  
1050 Thomas Jefferson Street, NW  
Seventh Floor  
Washington, DC 20007