

Exhibit C.1
NextEra Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

by and between

the South Carolina Public Service Authority

as Seller,

and

NextEra Energy, Inc.

as Buyer

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (“**Agreement**”) is made and entered into as of [●] (the “**Execution Date**”), by and between the South Carolina Public Service Authority, a South Carolina body corporate and politic (“**Seller**”), and NextEra Energy, Inc., a Florida corporation (“**Buyer**”). Seller and Buyer are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, Seller is a body corporate and politic created by Act No. 887 of the Acts of the State of South Carolina for 1934 and acts supplemental thereto and amendatory thereof (Code of Laws of South Carolina 1976, Sections 58-31-10 through 58-31-450) for the purpose of providing electric power and wholesale water;

WHEREAS, Seller’s business operations (as currently conducted and as conducted at any time from the Execution Date to the Effective Time (as defined below), the “**Business**”) include (a) the Electric Utility Business (as defined below), (b) the FERC Project Business (as defined below), (c) the Product Development Activities (as defined below), (d) the Recreational Operations (as defined below), (e) the Economic Grants Programs (as defined below), (f) the Water Business (as defined below), and (g) the conduct of other activities by Seller related or incidental to the foregoing;

WHEREAS, on May 21, 2019, the General Assembly of the State of South Carolina (the “**General Assembly**”) passed, and on May 22, 2019 the Governor of the State of South Carolina approved, a Joint Resolution pursuant to which the South Carolina Department of Administration (the “**Department of Administration**”) established a process (the “**Bidding Process**”) to receive competitive proposals for a possible sale of some or all of the assets of Seller, management proposals for a possible business transaction (other than an asset sale) designed to improve the efficiency and cost-effectiveness of Seller’s electric operations, and Seller’s proposal for reform, restructuring, and changes in operation;

WHEREAS, on November 26, 2019, the Department of Administration received bids for sale, including Buyer’s bid for sale (such bid, in the form attached to the Agreement to Transact (as defined below), “**Buyer’s Bid**”), and management proposals, as well as Seller’s proposal for reform, restructuring, and changes in operation (“**Seller’s Proposal**”);

WHEREAS, on [●], 2020, Buyer and the Department of Administration entered into that certain Agreement to Transact obligating Buyer to comply with the terms of Buyer’s Bid and to execute this Agreement in the event Buyer’s Bid was approved by the General Assembly, subject to the terms and conditions set forth therein (the “**Agreement to Transact**”);

WHEREAS, the Department of Administration, as required by the Joint Resolution: (a) evaluated the bids for sale and management proposals received and verified and analyzed Seller’s Proposal; (b) facilitated the conduct of confidential negotiations between Central (as defined below), on the one hand, and the participants in the Bidding Process (including Buyer), individually, on the other hand; and (c) concurrently presented recommendations of and

justifications for Buyer's Bid, one management proposal, and Seller's Proposal to the Chairman of the Senate Finance Committee and the Chairman of the House of Representatives Ways and Means Committee;

WHEREAS, the General Assembly has passed, and the Governor of the State of South Carolina has approved, an Act, a copy of which is attached hereto as Exhibit N (the "**Enabling Legislation**"), which, among other things, approved Buyer's Bid, including the terms set forth in this Agreement, and the Enabling Legislation has become law in the State of South Carolina;

WHEREAS, in furtherance of Buyer's Bid (a) Buyer Subsidiary (as defined below) and Central have, concurrently with the execution and delivery of this Agreement, entered into the Central PPA (as defined below); (b) Central, Seller, and, solely with respect to certain provisions thereof, Buyer have, concurrently with the execution and delivery of this Agreement, entered into the CIA Termination Agreement (as defined below); and (c) Buyer Subsidiary (or its Affiliate) and the other parties to the Exemption Agreements (as defined below) have entered into the Exemption Agreements;

WHEREAS, in accordance with the terms of the Agreement to Transact, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Purchased Assets (as defined below), and Seller desires to assign to Buyer, and Buyer desires to assume from Seller, the Assumed Obligations (as defined below), upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the representations, warranties, covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. As used in this Agreement, the following terms have the meanings specified in this Section 1.1:

"**2019 Financial Statements**" has the meaning set forth in Section 5.6(a).

"**2019 Income Statement**" has the meaning set forth in Section 5.6(a).

"**Acquired Account**" means any account maintained by or on behalf of Seller at any bank or other financial institution (a) into which customers of the Business (including any Customers) pay, deposit, or otherwise deliver funds in the ordinary course of business, or (b) into which vendors or other third parties pay, deposit, or otherwise deliver funds in connection with the Business and, in all cases, that Buyer identifies to Seller as an "Acquired Account" in a written notice delivered prior to the Closing.

“**Action**” means any claim, demand, action, suit, arbitration, proceeding, litigation, audit, or investigation by or before any Governmental Authority, whether civil, criminal, administrative, regulatory or otherwise, and whether at law, in equity or otherwise.

“**Actual Closing CapEx Shortfall Amount**” has the meaning set forth in Section 3.3(d).

“**Actual Pre-Closing Accounting Error Amount**” has the meaning set forth in Section 3.3(d).

“**Affiliate**” means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person; provided, however, that none of the State of South Carolina, the Department of Administration, or any county, municipality or other political subdivision, agency, authority, or instrumentality of the State of South Carolina shall be considered an “Affiliate” of Seller for purposes of this Agreement. For purposes of this definition, “control”, “controlled by”, and “under common control with” mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, as trustee or executor, as general partner or managing member, by contract or otherwise.

“**Aggregate Debt Amount**” means \$6,859,000,000.

“**Agreement**” has the meaning set forth in the Preamble.

“**Agreement to Transact**” has the meaning set forth in the Recitals.

“**Ancillary Agreements**” means the Transfer Instruments, the Exemption Agreements, the Central PPA, the CIA Termination Agreement, and the Purchase Price Escrow Agreement.

“**Applicable Accounting Principles**” has the meaning set forth in Section 3.3(b).

“**Applicable Month-End Date**” means, at the time that the Preliminary Closing Statement is required to be prepared and delivered to Buyer pursuant to Section 3.3(b), the last day of the most recent month for which actual Net Working Capital data and actual Capital Expenditure data is then-available.

“**Assigned Employment Agreements**” has the meaning set forth in Section 2.2(o).

“**Assigned IP**” has the meaning set forth in Section 2.2(d).

“**Assignment of Contracts**” has the meaning set forth in Section 4.3(d).

“**Assignment of Easements**” has the meaning set forth in Section 4.3(g).

“**Assignment of Leases**” has the meaning set forth in Section 4.3(f).

“Assumed Action” means (a) each of the Actions listed on Schedule 2.4(g)¹ and (b) any Action commenced against Seller after the Execution Date but prior to the Effective Time that arises out of a personal injury claim, employment claim that is not a class action, or worker’s compensation claim, to the extent such Action (i) relates to the Business or any Purchased Asset (or is attributable to ownership of the Business or any Purchased Asset), and (ii) arises in the ordinary course of business and does not (A) involve a claim for aggregate monetary damages in excess of \$500,000, (B) seek punitive or exemplary damages (and would not be able to seek punitive or exemplary damages if such Action were brought against Buyer as successor hereunder), or (C) otherwise seek relief that, if granted, would impose material restrictions on the Business or the Purchased Assets (or the operation thereof).

“Assumed Obligations” has the meaning set forth in Section 2.4.

“Assumption Agreement” means an instrument of assignment and assumption substantially in the form attached hereto as Exhibit B pursuant to which Seller shall assign to Buyer and Buyer shall accept and assume (i) all of the Purchased Assets as they exist as of the Effective Time, and (ii) all of the Assumed Obligations.

“ATT Disclosure Schedules” means the version of the “Purchase Agreement Disclosure Schedules” (as defined in the Agreement to Transact) that was delivered by the Department of Administration (on behalf of Seller) to Buyer immediately prior to the execution of the Agreement to Transact in accordance with the terms of the Agreement to Transact as modified in accordance with the Agreement to Transact.

“Balance Sheet” has the meaning set forth in Section 5.6(a).

“Base Purchase Price” means an amount equal to the sum of (a) the Debt Release Consideration, plus (b) the Closing Fixed Payment Amount, plus (c) the Deposit, plus (d) the Purchase Price Escrow Amount.

“Benefit Plan” means (a) each “employee benefit plan” (as such term is defined in Section 3(3) of ERISA, whether or not subject to ERISA), and (b) each other plan, program, policy, contract, agreement, or arrangement, whether written or oral, qualified or non-qualified, providing (i) compensation, bonus, commission, retention, change in control, profit-sharing or other incentive compensation, severance, termination, salary continuation, or unemployment payments or benefits, (ii) deferred compensation, supplemental retirement, defined contribution, defined benefit, retirement, or pension payments or benefits, (iii) health, medical, dental, vision, life, accident, disability, hospitalization, retiree, employee assistance, educational assistance, relocation, fringe benefits or perquisites, including post-employment benefits, or (iv) vacation, holiday, sickness, or other leave, in each case to any Business Employee that is maintained by, contributed to, sponsored by, or required to be contributed to by Seller or under which Seller

¹ **NEE Note to Draft:** Schedule 2.4(g) to consist of the list of personal injury, premises liability, wrongful death, automobile/motorcycle accident, and discrimination/equal pay actions and potential claims listed on Santee Cooper Pending Cases (11/22/2019) schedule included in the VDR.

may have any liability (contingent or otherwise), but shall exclude any such plan maintained by the State of South Carolina and any individual employment or retention agreement.

“**Bidding Process**” has the meaning set forth in the Recitals.

“**Bill of Sale**” means a bill of sale substantially in the form attached hereto as Exhibit A transferring to Buyer all of Seller’s right, title, and interest in, to, and under the tangible personal property that is included in the Purchased Assets.

“**Burdensome Condition**” has the meaning set forth in Section 7.5(d).

“**Business**” has the meaning set forth in the Recitals.

“**Business Day**” means any day other than Saturday, Sunday, or any day on which banks in the State of South Carolina, the State of New York, or the State of Florida are authorized by Law to close.

“**Business Employee**” means an employee of Seller. Each Business Employee as of the date specified in Section 7.7(a) is listed on the Business Employee List, as it may be updated by Seller from time to time prior to the Closing Date, in accordance with the terms of this Agreement and subject to the limitations set forth in this Agreement.

“**Business Employee List**” has the meaning set forth in Section 7.7(a).

“**Buyer**” has the meaning set forth in the Preamble.

“**Buyer 401(a) Plan**” has the meaning set forth in Section 7.8(d).

“**Buyer Benefit Plan**” has the meaning set forth in Section 7.8(a).

“**Buyer Subsidiary**” means [●], a [●] [corporation] and a wholly owned subsidiary of Buyer.

“**Buyer’s Bid**” has the meaning set forth in the Recitals.

“**Buyer’s Title Insurance Company**” means Stewart Title Insurance Company (or another national title company reasonably acceptable to Buyer).

“**CapEx Shortfall Amount**” means the amount, if any, equal to the difference between (a) 90% of the Cumulative CapEx Target, minus (b) the actual amount spent by Seller on Capital Expenditures after September 30, 2019 and prior to the Closing Date; provided, however, that if the amount calculated pursuant to clause (b) is greater than the amount calculated pursuant to clause (a), the “CapEx Shortfall Amount” shall be zero.

“**CapEx Stub Portion**” means the sum of (a) for each whole month between the Applicable Month-End Date and the Closing Date, the product of (i) in the CapEx Tables, the amount set forth in the row labeled “Monthly Total” corresponding to such month, multiplied by (ii) 110%, plus (b) the product of (i) in the CapEx Tables, the amount set forth in the row labeled

“Monthly Total” corresponding to the month in which the Closing Date occurs, multiplied by (ii) 110%, multiplied by (iii) the Elapsed Portion.

“**CapEx Tables**” means the tables setting forth the monthly and cumulative Capital Expenditure targets for that portion of 2019 falling after September 30, 2019 and running through 2021, as set forth on Exhibit L-3.²

“**CapEx Target Limit**” means an amount equal to the sum of (a) the amount spent on Capital Expenditures after September 30, 2019 and through the Applicable Month-End Date, plus (b) the CapEx Stub Portion.

“**Capital Expenditures**” means, for purposes of the CapEx Tables and determining the CapEx Shortfall Amount, those costs actually incurred and paid by Seller that represent productive capital as it would be reflected in a cash flow statement prepared in a manner consistent with GAAP; it being understood that, notwithstanding anything to the contrary herein (or in the application of GAAP), neither the cost of removal, asset retirement, dismantlement, or other interim or end of life removal costs, nor construction or other accruals that do not represent actual cash payments made, shall constitute Capital Expenditures for purposes hereof.

“**Cash and Cash Equivalents**” means all cash, certificates of deposit, commercial paper, treasury bills and notes, marketable securities, and other cash equivalents of the Business, and all other items included as cash or cash equivalents on the Financial Statements; provided, however, (a) the Decommissioning Funds shall not constitute or otherwise be included in Cash and Cash Equivalents, and (b) the security deposits and escrow accounts (including any funds therein) maintained by Seller on behalf of customers or other third parties (other than accounts dedicated to pay supplemental retirement benefits to current or former employees) shall not constitute or otherwise be included in Cash and Cash Equivalents.

“**Casualty Loss**” has the meaning set forth in Section 7.14.

“**Central**” means Central Electric Power Cooperative, Inc., an electric cooperative formed under Sections 33-49-10 et seq. of the Code of Laws of South Carolina 1976, together with any permitted successor or assignee.

“**Central Coordination Agreement**” means the Power Systems Coordination and Integration Agreement dated as of December 31, 1980, as amended.

² **NEE Note to Draft:** This Agreement contemplates that the CapEx Shortfall Amount will be based on monthly projections of Capital Expenditures through the end of 2021. To date, the Department of Administration has made available only annual projections of Capital Expenditures, but the Department of Administration’s representatives have indicated that the Department of Administration will provide monthly projections. Exhibit L-3 will be based on such monthly projections, which Buyer understands will be consistent in all respects with the annual projections made available to date. In the event that monthly projections are not consistent with annual projections, Buyer will need to adjust the Base Purchase Price accordingly.

“**Central PPA**” means that certain power purchase agreement, dated as of the Execution Date, by and between Central and Buyer Subsidiary, a copy of which is attached hereto as Exhibit G.

“**CEU Financing Order**” has the meaning set forth in Section 58-31-710 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation).

“**CEU Securitization Bonds**” has the meaning set forth in Section 58-31-710 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation).

“**CIA Termination Agreement**” means an agreement among Seller, Central, and, solely with respect to certain provisions thereof, Buyer, dated as of the Execution Date, a copy of which is attached hereto as Exhibit K.

“**Closing**” has the meaning set forth in Section 4.1.

“**Closing Amounts**” has the meaning set forth in Section 3.3(d).

“**Closing Date**” has the meaning set forth in Section 4.1.

“**Closing Date Payment**” has the meaning set forth in Section 3.1(a).

“**Closing Decommissioning Funds**” has the meaning set forth in Section 3.3(d).

“**Closing Fixed Payment Amount**” means an amount equal to \$500,000,000 minus the Deposit.

“**Closing Month CapEx Target**” means, in the CapEx Tables, the amount set forth in the row labeled “Monthly Capital” corresponding to the month and year in which the Closing Date occurs.

“**Closing Net Working Capital**” has the meaning set forth in Section 3.3(d).

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Commercial Paper Obligation**” means any short term debt obligation issued by Seller pursuant to the CP and Revolving Notes Resolution and the Issuing and Paying Agency Agreement.

“**Commitment**” has the meaning set forth in Section 7.21(a).

“**Condemnation Value**” has the meaning set forth in Section 7.14(a).

“**Confidentiality Agreement**” means the Confidentiality Agreement dated as of the Execution Date between Seller and Buyer in the form attached hereto as Exhibit M.

“**Continuation Period**” has the meaning set forth in Section 7.8(a).

“**Continuing Guarantees**” has the meaning set forth in Section 7.12.

“**Controlled Group Liabilities**” means any and all liabilities of Seller or any other entity or trade or business that is treated as a single employer with Seller pursuant to Section 414 of the Code or that is a member of the same “controlled group” pursuant to Section 4001(a)(14) of ERISA (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, or (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

“**CP and Revolving Notes Resolution**” means the Amended and Restated Resolution of the Board of Directors of Seller authorizing the Issuance of Revenue Promissory Notes; Authorizing the Issuance of Revolving Credit Notes in Connection Therewith, Prescribing the Form of the Notes and the Revolving Credit Notes; Authorizing the Issuance of Alternative Variable Rate Financing Obligations of Seller and Making Certain Other Covenants and Agreements with Respect Thereto.

“**Cumulative CapEx Target**” means the sum of (a) in the CapEx Tables, the amount set forth in the row labeled “Cumulative Total” corresponding to the month immediately preceding the month in which the Closing Date occurs in the year in which the Closing Date occurs, plus (b) the Elapsed Portion of the Closing Month CapEx Target.

“**Customer**” means any electric retail or wholesale service customer of Seller, water customer of Seller, or recipient of transmission services provided by Seller, in each case, as of the Effective Time.

“**Dealer Agreements**” means the Amended and Restated Dealer Agreements, each dated as of August 1, 2017, entered into by the Seller with each Dealer (as defined therein), including J.P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Wells Fargo Securities, LLC, U.S. Bancorp Investments, Inc., and TD Securities (USA) LLC.

“**Debt Instrument**” means (a) any Revenue Obligation, (b) any Revolving Loan, (c) any Reimbursement Obligation, (d) any Commercial Paper Obligation, and (e) any Note or other agreement, document, or instrument evidencing any obligation identified in clauses (a) through (d) hereof.

“**Debt Release Consideration**” has the meaning provided in Section 3.2.

“**Decommissioning**” means the retirement, dismantlement, and removal of VCSNS 1 (including any VCSNS 1 ISFSI), decontamination of VCSNS 1 and the VCSNS 1 site (including the VCSNS 1 Real Property and any VCSNS 1 ISFSI), compliance with all applicable Laws (including the applicable requirements of the Atomic Energy Act and the NRC’s rules, regulations, orders, and pronouncements thereunder), and any planning and administrative activities incidental thereto.

“**Decommissioning Funds**” means, collectively, (i) the Internal Decommissioning Funds and (ii) the External Decommissioning Fund.

“Decommissioning Funds Overage Amount” shall exist when (and shall be equal to the amount by which) the Closing Decommissioning Funds exceed the Target Decommissioning Funds.

“Decommissioning Funds Underage Amount” shall exist when (and shall be equal to the amount by which) the Target Decommissioning Funds exceed the Closing Decommissioning Funds.

“Deed” has the meaning set forth in Section 4.3(e).

“Defeasance Accounts” has the meaning set forth in Section 3.2.

“Delivery Point” means, with respect to any electric retail or wholesale customer of Seller, the point on such Customer’s premises where the Distribution Assets or the Transmission Assets, as applicable, connect to such Customer’s electric meter.

“Department of Administration” has the meaning set forth in the Recitals.

“Deposit” has the meaning set forth in Section 3.4(a).

“Designated Material Property” means the Owned Real Property, Leased Real Property, and Easements described on Schedule 1.1(a).

“Distribution Assets” means the electric distribution facilities, equipment, and other tangible personal property, real property, and assets used or held for use in connection with, or otherwise related to, the Business or located on the Real Property, including the facilities, equipment, and other tangible property and assets that connect the Transmission Assets to the Delivery Points for those Customers interconnected to the electric distribution system (and other property and assets associated therewith or ancillary thereto, including meters, remote metering equipment, and equipment needed to access meters, such as keys to locked meter rooms and any meter/special/barrel lock/anchor keys), distribution substation equipment, feeder circuits and associated facilities, buildings, material, equipment and hardware (including breakers, switches and switchgear, regulators, capacitor banks, reclosers, arresters, and protective equipment), primary circuits, distribution circuits, transformers, secondaries, services, instrument transformers, substation structures, substations, buswork, substation battery and chargers, relay protection panels, relay communications/carriers, remote telemetry and control equipment, metering, fault recorders, sequence of event recorders, annunciators, substation fencing, and associated physical assets (including structures, poles, conductors, cables, wires, insulators, conduits, manholes, vaults, enclosures, metering, and outdoor lights), whether located above ground or underground, but excluding the FERC Project Assets.

“Documents” means all Records related to the Purchased Assets, the Assumed Obligations, or the Business, including the following: the books of account; general, financial, accounting, and personnel Records; files; invoices; customers’ and suppliers’ lists; other distribution lists; billing Records; customer/premise/account data; historical consumption information; purchasing Records; sales and promotional literature; operating, safety, maintenance, and other manuals; standards; procedures; customer and supplier correspondence;

regulatory (including licensing) Records (including notices, applications, and filings to or with any Governmental Authority); operating data and plans and other operating Records; repair, maintenance, and service Records; quality assurance Records; inspection reports; environmental assessments, reports, studies, audits, testing, and data, and other environmental Records; mapping Records; geotechnical, archeological, and endangered species reports; real estate surveys; copies of title insurance policies; copies of governmental entitlement documents (including copies of development orders, impact fee arrangements, and unrecorded obligations (whether monetary or in kind)); technical documentation (such as blueprints, as-built plans, engineering documents, design specifications, drawings, functional requirements, operating instructions, and NRC licensing basis materials); user documentation (such as installation guides, user manuals, and training materials); and all other Records, in each case, to the extent relating to the Purchased Assets, the Assumed Obligations, or the Business, whether existing in tangible form or stored in electronic or other medium; provided, that “Documents” does not include: (a) any of the foregoing to the extent exclusively related to any Excluded Asset or Excluded Liability; (b) any information that Seller is prohibited from disclosing or transferring to Buyer under any applicable Law or Order (other than any Seller Law) (copies of which, to the extent related exclusively to any Purchased Asset or Assumed Obligation and as permitted by Law or Order, will be made available to Buyer upon Buyer’s reasonable request); (c) any valuations related to the sale of the Business, the Purchased Assets, or the Assumed Obligations; (d) any materials protected by attorney-client privilege or other legal privilege (provided that to the extent any such materials relate to, or bear upon, any Assumed Obligations, such materials shall constitute Documents, and, in connection with delivery thereof to Buyer, if either Party so requests, Buyer and Seller shall enter into a customary joint defense agreement that would alleviate the loss of such privilege); and (e) minute books or other similar records of the internal governance proceedings of Seller.

“**DOE**” means the U.S. Department of Energy, or its successor.

“**Easement Notice**” has the meaning set forth in Section 4.3(q).

“**Easements**” means all electrical distribution easements, electrical transmission easements, access easements, prescriptive easements, easements implied by law or as otherwise acquired, aerial easements, other easements, and similar use and access rights owned by or benefitting Seller and related to, or used or held for use in connection with, the Business, together with, to the extent installed by Seller, all structures, facilities, fixtures, systems, improvements, and items of property located thereon or therein, or attached or appurtenant thereto and all licenses and permits used or issued in connection with the operation of the easements (including, for example, crossing agreements, railroad crossing agreements, and other licenses).

“**Economic Grants Programs**” means the activities and programs described on Exhibit O.

“**Effective Time**” has the meaning set forth in Section 4.1.

“Elapsed Portion” means, with respect to the month during which the Closing Date occurs, (a) the number of calendar days elapsed during such month through (and including) the Closing Date divided by (b) the total number of calendar days in such month.

“Electric Utility Business” means the generation, transmission, and distribution of electrical energy and associated products, for both wholesale service and retail service, including the ownership, lease, maintenance, development, construction, expansion, financing, and operation, as applicable, of the Generation Facilities, the Transmission Assets and the Distribution Assets, but excluding the FERC Project Business.

“Enabling Legislation” has the meaning set forth in the Recitals.

“Encumbrances” means any charge, claim, mortgage, lien, option, pledge, security interest, or other restriction of any kind.

“Environment” means all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings and the air within other natural or man-made structures above or below ground), plant and animal life, and any other natural resource.

“Environmental Claims” means any and all Actions arising pursuant to or arising from (a) any violation of, or liability under, Environmental Laws, (b) any violation of Environmental Permits, or (c) the presence, Release, or threatened Release (or alleged presence, Release, or threatened Release) into the Environment of or exposure to any Hazardous Materials, including any and all Actions by any Governmental Authority or by any Person for enforcement, investigation, monitoring, cleanup, remediation, removal, response, remedial actions, natural resource damages, property damage, personal injury, fines, penalties or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

“Environmental Laws” means any and all Laws regulating or relating to, or imposing liability with respect to, pollution or the protection of the Environment or human safety or health or exposure to Hazardous Materials, including Laws relating to Releases and threatened Releases or otherwise relating to the manufacture, generation, recycling, labeling, production, remediation, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials. Environmental Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Endangered Species Act, 16 U.S.C. § 1531 et seq.; the National Environmental Policy Act, 42 U.S.C. § 4321, et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Atomic Energy Act, 42 U.S.C. § 2014 et seq.; the Nuclear

Waste Policy Act, 42 U.S.C. § 10101 et seq.; the Protecting our Infrastructure of Pipelines and Enhancing Safety Act, 49 U.S.C. § 60101 et seq.; and all other Laws analogous to any of the above and their state and local counterparts or equivalents.

“Environmental Permits” means all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights, or other authorizations of Governmental Authorities issued under or with respect to applicable Environmental Laws that are (a) necessary for the operation of the Business or (b) used or held by Seller for the operation of the Purchased Assets, in each case under clause (a) or (b), as conducted as of the Execution Date.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“Escrow Account” has the meaning set forth in the Escrow Agreement.

“Escrow Agent” means JPMorgan Chase Bank, N.A., or any successor thereto.

“Escrow Agreement” means that certain Escrow Agreement by and among Buyer, the Department of Administration, and the Escrow Agent, entered into on the Recommendation Date (as defined in the Agreement to Transact).

“Estimated Aggregate Adjustment Amount” means an amount equal to the sum of (a) the amount (if any) by which (i) 90% of the Target Net Working Capital exceeds (ii) the lesser of (A) Estimated Net Working Capital or (B) the NWC Target Limit, plus (b) the amount (if any) by which (i) the Target Decommissioning Funds exceed (ii) the Estimated Decommissioning Funds, plus (c) the amount (if any) by which (i) 90% of the Cumulative CapEx Target exceeds (ii) the lesser of (A) the Estimated CapEx Spend or (B) the CapEx Target Limit, plus (d) the amount (if any) by which (i) the Estimated Pre-Closing Accounting Error Amount exceeds (ii) \$25,000,000, plus (e) the Pre-Closing Debt Increase Amount (if any).

“Estimated CapEx Spend” has the meaning set forth in Section 3.3(b).

“Estimated Decommissioning Funds” has the meaning set forth in Section 3.3(b).

“Estimated Net Working Capital” has the meaning set forth in Section 3.3(b).

“Estimated Pre-Closing Accounting Error Amount” has the meaning set forth in Section 3.3(b).

“Excluded Assets” has the meaning set forth in Section 2.3.

“Excluded Liabilities” has the meaning set forth in Section 2.5.

“Executed Ancillary Agreements” means the Central PPA, the CIA Termination Agreement, and the Exemption Agreements.

“Execution Date” has the meaning set forth in the Preamble.

“Exemption Agreements” means those agreements and other instruments in effect on the Execution Date and that are listed on Schedule 1.1(e).

“Expense Reimbursement Amount” has the meaning set forth in Section 7.3.

“External Decommissioning Fund” means the South Carolina Public Service Authority Virgil C. Summer Decommissioning Trust.

“FERC” means the U.S. Federal Energy Regulatory Commission, or its successor.

“FERC Approvals” means (a) FERC authorization under section 203 of the Federal Power Act required to consummate the transactions contemplated hereby; and (b) FERC authorizations that are conditions precedent to the obligation of Buyer Subsidiary to commence sales of, and/or of Central to commence purchases of, electric energy and capacity under the Central PPA.

“FERC License” means the license issued by FERC to Seller for Project No. 199.

“FERC Project Assets” means (a) the electric generation facilities listed on Exhibit Q, together with all ancillary equipment, tangible personal property, real property, and assets (including the facilities, equipment, and other tangible property and assets that are used in the generation of electrical energy and associated products by such energy generation facilities), (b) Lake Marion, South Carolina, (c) Lake Moultrie, South Carolina, (d) the electric distribution facilities, equipment, and other tangible personal property, real property, and assets, if any, operated by Seller under the FERC License, (e) the electric transmission facilities, equipment, and other tangible personal property, real property, and assets, if any, operated by Seller under the FERC License, (f) any other property operated by Seller under the FERC License, and (g) all equipment, tangible personal property, real property, and other assets ancillary to any of the foregoing.

“FERC Project Business” means the ownership, lease, maintenance, development, construction, expansion, financing, and operation of the FERC Project Assets.

“Final Closing Statement” has the meaning set forth in Section 3.3(d).

“Financial Statements” has the meaning set forth in Section 5.6(a).

“Financing” has the meaning set forth in Section 7.13(b).

“Financing Period” has the meaning set forth in Section 4.1.

“Financing Source” means any Person that commits to provide or to cause to be provided, or otherwise enters into any agreement in connection with, Financing, including any party to any commitment to provide Financing or to purchase Financing or any part thereof, or to any joinder agreement, credit agreement, purchase agreement, or indenture relating to Financing (including any definitive agreement executed in connection with Financing (or any related fee letter) or any such commitment).

“**Franchise**” means any agreement, ordinance, or other grant of any municipal, town, or county franchise relating to the Business.

“**Fraud**” means actual and intentional fraud by a Party with respect to any representation or warranty set forth in this Agreement (as qualified by the Seller Disclosure Schedules) in which the Party making such representation or warranty (a) had actual knowledge (i.e., in the case of Seller, Seller’s Knowledge) that the applicable representation or warranty, as may be qualified in this Agreement, was false at the time it was made and (b) made such representation or warranty with the intention that the other Party rely thereon. “Fraud” does not include constructive fraud or other claims based upon constructive knowledge, negligent misrepresentation, recklessness, or other similar theories.

“**GAAP**” means United States generally accepted accounting principles issued by the Governmental Accounting Standards Board applicable to governmental entities that use proprietary fund accounting, applied on a consistent basis.

“**General Assembly**” has the meaning set forth in the Recitals.

“**Generation Facilities**” means each energy generation facility listed on Schedule 2.2(a)(i),³ together with all ancillary equipment, tangible personal property and real property, including the facilities, equipment, and other tangible property and physical assets that are used in the generation of electrical energy and associated products by such energy generation facilities, including circuits and associated facilities, buildings, ISFSIs, material, equipment and hardware transformers, instrument transformers, structures, relay protection panels, relay communications/carriers, remote telemetry and control equipment, metering, fault recorders, sequence of event recorders, annunciators, fencing, and associated physical assets (including structures, poles, conductors, cables, wires, insulators, conduits, manholes, vaults, enclosures, metering, and outdoor lights), whether located above ground or underground. For the avoidance of doubt, “Generation Facilities” does not include the FERC Project Assets.

“**Governing Documents**” means, as applicable to a given Debt Instrument, each of the Master Resolution, each relevant Supplemental Resolution, the CP and Revolving Notes Resolution, each Revolving Credit Agreement, the Reimbursement Agreement, and each Note.

“**Governmental Authority**” means any foreign, domestic, supranational, federal, territorial, state, county, city, local, or municipal governmental body, or any political or other subdivision, department, or branch thereof; any governmental, quasi-governmental, regulatory or administrative agency, commission, department, bureau, board, body, official, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power, including each State Authority, NERC, NRC, FERC, and SERC; or any court, tribunal, or judicial or arbitral body. For the avoidance of doubt, none of Central, any other electric cooperative (including any member of Central), or the governing board of directors of any of the foregoing shall constitute a Governmental Authority.

³ **NEE Note to Draft:** Schedule 2.2(a)(i) must list every electric generating facility in which Seller holds any ownership interest.

“**Guarantees**” has the meaning set forth in Section 7.12.

“**Hazardous Material**” means (a) any chemicals, materials, substances, or wastes which are now or hereafter defined or regulated, or that form the basis of liability, under Environmental Laws or are included in the definition of “hazardous substance”, “hazardous material”, “hazardous waste”, “solid waste”, “toxic substance”, “extremely hazardous substance”, “pollutant”, “contaminant”, or words of similar import under any applicable Environmental Laws; and (b) any petroleum, petroleum products (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas), or oil and gas exploration or production waste, polychlorinated biphenyls, asbestos-containing materials, mercury, and lead-based paints.

“**Indebtedness**” means (without duplication), as of any specified time, the outstanding principal amount of, accrued and unpaid interest on, and other payment obligations (including breakage, prepayment, or other premiums, make-whole amounts, accrued fees, reimbursements, and any other amounts that become payable in connection with the prepayment arising under any such obligations or unwinding or settlement thereof) with respect to (a) any obligations for borrowed money, whether short-term or long-term, secured or unsecured, including the Debt Instruments, and including convertible obligations; (b) any obligations evidenced by any note, bond, indenture, debenture, or other debt security or similar instrument, or overdrafts of cash amounts; (c) any obligations issued in substitution or exchange for borrowed money or for the deferred purchase price of property, goods, or services (including obligations under leases required to be capitalized under GAAP, applied on a consistent basis, but excluding any trade payables and accrued expenses arising in the ordinary course of business, consistent with past practice); (d) any obligations secured by a lien on assets of Seller (including any Purchased Assets); (e) any swap, collar, hedge, cap, or other contracts the principal purpose of which is to benefit from or reduce or eliminate the risk of fluctuations in interest rates or currencies (valued at the termination value thereof); (f) any obligations under or in respect of acceptance credit, letters of credit (to the extent drawn upon), bank guarantees, or similar facilities; (g) any obligation created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person; and (h) any guaranty, or any arrangement having the economic effect of a guaranty, of any of the foregoing. Notwithstanding the foregoing, “Indebtedness” shall not include any obligations under operating leases or leases not otherwise required to be capitalized under GAAP.

“**Independent Accounting Firm**” means Grant Thornton LLP or, if such firm is unable or unwilling to act, such other independent public accounting firm as shall be agreed in writing by Seller and Buyer.

“**Intellectual Property**” means (a) Trademarks, trade dress, and similar rights, and applications to register any of the foregoing; (b) patents and patent applications (including provisional, international, continuation, continuation-in-part, divisional, continued prosecution, reissue, and re-examination applications); (c) copyrights (whether registered or unregistered), applications for registration, and works of authorship; (d) confidential and proprietary information, including trade secrets, know-how, ideas, designs, concepts, compilations of information, methods, techniques, procedures, specifications, invention disclosures, and

processes, whether or not patentable; (e) computer programs, other software (including source and object codes), and database rights; and (f) any other intellectual property and industrial property rights of any kind or nature.

“Internal Decommissioning Funds” means all of those funds internally established and held by Seller, which are maintained by Seller with respect to Seller’s Decommissioning obligations for its interest in VCSNS 1, including any VCSNS 1 ISFSI Decommissioning obligations, as set forth on Schedule 2.2(j).

“Inventory” means materials, spare equipment and parts, coal and other fuel supplies, chemical inventories, and other consumable supplies, used or held for use in connection with, or otherwise relating to, the Business.

“ISFSI” means a complex designed and constructed for the interim storage of spent nuclear fuel; solid, reactor-related, greater than Class C waste; and other associated radioactive materials.

“Issuing and Paying Agency Agreement” means the Amended and Restated Issuing and Paying Agency Agreement, dated as of May 23, 2017, by and between U.S. Bank National Association and Seller regarding the commercial paper program of Seller described therein.

“IT Assets” has the meaning set forth in Section 2.2(a)(x).

“IT Systems” has the meaning set forth in Section 5.23(f).

“Joint Resolution” means the Joint Resolution (A95, R113, H4287) passed by the General Assembly on May 21, 2019 and approved by the Governor of the State of South Carolina on May 22, 2019.

“Lake Marion Regional Water System” means the regional water distribution system and utility business operated on Lake Marion, South Carolina, that includes a pipeline system to deliver drinking water to surrounding towns and communities, a treatment plant, pump stations, and other associated facilities.

“Law” means any constitutional provision, statute, law, ordinance, regulation, rule, code, order (whether executive or otherwise), injunction, stay, judgment, decree, decision, ruling, directive, interpretation, or Order of any Governmental Authority, including NERC standards, requirements, and regulations.

“Leased Real Property” means all real property leased or subleased to Seller or which Seller otherwise has a right or option to use or occupy, and related to, or used or held for use in connection with, the Business, together with all structures, facilities, fixtures, systems, improvements and items of property located thereon, or attached or appurtenant thereto, and all licenses and permits used or issued in connection with the operation of such real property (including, for example, crossing agreements, railroad crossing agreements, and other licenses).

“**Leases**” means all leases, subleases, licenses, crossing agreements, crossing permits, or other agreements or instruments (which, for the avoidance of doubt, shall not include Easements) by which any right to use or occupy any interest in real property is granted by or to Seller.

“**Legacy Lease Agreements**” means (i) Contract Obligation dated January 1, 1950, by and between Seller and Central, as amended, (ii) Lease Contract dated October 22, 1952, by and between Seller and Central, as amended, and (iii) D Lease Contract dated April 25, 1963, as amended by D & E Lease Contract E Amendment to D Lease Contract made as of September 23, 1968, as amended by F Amendment to D & E Lease Contract dated as of April 27, 1970, as amended by G Amendment to D, E & F Lease Contract dated as of September 20, 1973, as amended by H Amendment to D, E, F & G Lease Contract dated as of October 20, 1975, as amended by K Amendment to D, E, F, G & H Lease Contract dated as of April 27, 1976, as amended by L Amendment to D, E, F, G, H & K Lease Contract dated as of December 22, 1976.

“**Legacy Leased Properties**” means the property (real or personal) that is subject Seller’s option to acquire from Central under the Legacy Lease Agreements (which option Seller exercised on January 19, 1981) and for which title has not yet been conveyed or transferred from Central to Seller.

“**Licensees**” has the meaning set forth in Section 7.9(a).

“**Loss**” or “**Losses**” means any and all damages, fines, fees, losses, liabilities, deficiencies, claims, diminutions in value, interest, awards, judgments, penalties, costs, and expenses (including reasonable attorneys’ fees, court costs, and other costs of suit and other reasonable out-of-pocket expenses incurred in investigating, preparing, or defending the foregoing).

“**Major Loss**” has the meaning set forth in Section 7.14(b).

“**Make-Whole Amount**” means (a) with respect to any Revenue Obligation, the make whole or redemption premium, if any, required by the terms of the Master Resolution, the relevant Supplemental Resolution, the Revenue Obligation, or any Note evidencing such Revenue Obligation to be paid upon the redemption of such Revenue Obligation, (b) with respect to any Revolving Loan, any prepayment or early termination premiums or other additional amounts required to be paid by Seller under the terms of the related Revolving Credit Agreement (including under the terms of any fee letters executed in connection therewith) in respect of any loss, cost or expense incurred by the relevant bank as notified to Seller by such bank in accordance with the requirements of such Revolving Credit Agreement (including under the terms of any fee letters executed in connection therewith), and (c) with respect to any Reimbursement Obligation, any reimbursement payment or additional amounts required to be paid by Seller under the terms of the Reimbursement Agreement.

“**Master Resolution**” means the Master Revenue Obligation Resolution, adopted by Seller on April 26, 1999, providing for Seller’s issuance of Revenue Obligations, as amended.

“**Material Adverse Effect**” means any fact, occurrence, circumstance, effect, condition, change, event, or development that, individually or taken together with all such other facts,

occurrences, circumstances, effects, conditions, changes, events, or developments, is a material adverse effect on (a) the business, assets, properties, results of operations, or condition (financial or otherwise) of the Business, taken as a whole, or (b) the ability of Seller to perform its obligations under this Agreement and consummate the transactions contemplated hereby on a timely basis; provided, however, that, in the case of clause (a) only, Material Adverse Effect shall not include any fact, occurrence, circumstance, effect, condition, change, event, or development that results from or arises out of (i) the announcement or pendency of this Agreement and the transactions contemplated hereby, including by reason of the identity of Buyer or any communication by Buyer regarding the plans or intentions of Buyer with respect to the conduct of the Business, (ii) any change in the conditions in the international, national, or regional economy, financial markets, capital markets, or commodities markets, including changes in interest rates or exchange rates, (iii) any change in international, national, regional, or local regulatory or political conditions, (iv) any change in Law (or authoritative interpretation thereof), (v) any change in GAAP or in the generally applicable principles used in the preparation of the financial statements as required by FERC or NRC, or in the authoritative interpretation thereof, (vi) any changes or developments in national, regional, state, or local wholesale or retail markets for natural gas or related products including those due to changes in commodities prices or hedging markets therefor, (vii) any changes or developments in national, regional, state, or local natural gas transmission or distribution systems, (viii) any changes or developments in national, regional, state, or local wholesale or retail natural gas prices, (ix) acts expressly required by this Agreement or expressly consented to in writing in advance by Buyer, (x) geopolitical conditions, the outbreak or escalation of hostilities, any acts of war, sabotage, or terrorism, or any escalation or worsening of any such acts of war, sabotage, or terrorism, (xi) any failure to meet any internal or published projections, forecasts, estimates, or predictions in respect of recoveries, revenues, earnings, or other financial or operating metrics for any period, (xii) any changes in weather or climate or acts of God, and (xiii) the resignation or termination of any employee in a senior leadership position at Seller, or any strike, lockout, slowdown or work stoppage against Seller; provided further, that:

(A) with respect to clauses (ii)-(viii), (x) and (xii), such impact shall be excluded only to the extent it is not disproportionately adverse to the Business, taken as a whole, as compared to other similarly situated businesses;

(B) a Casualty Loss or Taking addressed by Section 7.14 shall not be deemed to constitute, nor shall any such Casualty Loss or Taking be taken into account in determining whether there has occurred, a Material Adverse Effect;

(C) any fact, circumstance, effect, change, event, or development that is, or that affects only, an Excluded Asset or an Excluded Liability shall not be deemed to constitute, and shall not be taken into account when determining whether there has occurred, a Material Adverse Effect;

(D) any change in State Law (or authoritative interpretations thereof) or in state or local regulatory or political conditions in the State of South Carolina (and the impact and effects of such change), and any other change resulting from actions taken (or actions not taken) by State Authorities (and the impact and effects of such change), shall not be excluded, and may be taken

into account, for purposes of determining whether there has occurred a Material Adverse Effect; and

(E) with respect to clause (xi), the underlying cause(s) of any failure to meet any internal or published projections, forecasts, estimates, or predictions shall not be excluded, and may be taken into account, for purposes of determining whether there has occurred a Material Adverse Effect.

“**Material Contracts**” has the meaning set forth in Section 5.8(a).

“**Material Environmental Permit**” means any material Environmental Permit that is necessary for the (a) ownership, lease, or operation of the Purchased Assets, or (b) conduct or operation of the Business as it is currently being conducted or operated.

“**Material Permit**” means any material Permit held by or issued to Seller relating to, or necessary for, the (a) the ownership, lease, or operation of the Purchased Assets or (b) conduct or operation of the Business as currently conducted or operated.

“**Monthly Average NWC Amount**” means an amount equal to the quotient obtained by dividing (a) the sum of the actual Net Working Capital amount as of the last day of the month for each of the [X] months immediately preceding the month in which the Closing Date occurs for which actual Net Working Capital data is available, by (b) [X].

“**NERC**” means the North American Electric Reliability Corporation.

“**Net Adjustment Amount**” has the meaning set forth in Section 3.3(i).

“**Net Working Capital**” means, as at a specified date and without duplication, an amount (which may be positive or negative) equal to the (a) aggregate value of the current assets of the Business that are included in the Purchased Assets, minus (b) aggregate value of the current liabilities of the Business that are included in the Assumed Obligations; provided, that for the avoidance of doubt, Net Working Capital does not include any Cash and Cash Equivalents or the Decommissioning Funds. The Target Net Working Capital calculation and the related methodology underlying the calculations of Net Working Capital are set forth on Exhibit L-1 and Exhibit L.2, respectively.

“**Net Working Capital Shortfall Amount**” means the amount (if any) by which (a) 90% of the Target Net Working Capital exceeds (b) the Closing Net Working Capital.

“**Net Working Capital Surplus Amount**” means the amount (if any) by which (a) the Closing Net Working Capital exceeds (b) 110% of the Target Net Working Capital.

“**New State Law**” means any State Law or State Order issued after November 26, 2019 (or any State Law or State Order issued on or prior to November 26, 2019 that did not apply to Seller as of November 26, 2019, but which becomes applicable to Seller after November 26, 2019), excluding (a) the Enabling Legislation, and (b) any State Order issued after November 26,

2019 pursuant to an Action commenced by a Person that is not a State Authority, which Action is not supported by any State Authority.

“**Non-Assignable Asset**” has the meaning set forth in Section 7.4(b).

“**Note**” means any note issued in respect of a (a) Revenue Obligation as authorized by and pursuant to the Master Resolution and the relevant Supplemental Resolution, and (b) Revolving Loan, Reimbursement Obligation, Commercial Paper Obligation, or other obligation, as authorized by and pursuant to the CP and Revolving Notes Resolution and, where applicable, any other Governing Documents.

“**Notice of Disagreement**” has the meaning set forth in Section 3.3(e).

“**NRC**” means the U.S. Nuclear Regulatory Commission, or its successor.

“**NRC Approvals**” means NRC authorizations under 10 CFR 50.80(a) required to consummate the direct license transfer for VCSNS 1.

“**NWC Target Limit**” means an amount equal to the sum of (a) the actual Net Working Capital as of the last day of the Applicable Month-End Date, plus (b) the product of (i) 10% multiplied by (ii) the quotient obtained by dividing (x) the Monthly Average NWC Amount by (y) 30, multiplied by (iii) the number of calendar days beginning with (and including) the first day of the month following Applicable Month-End Date and ending on (and including) the Closing Date.

“**Omnibus Assignment of Easements**” has the meaning set forth in Section 4.3(h).

“**Order**” means any order, decision, judgment, ruling, writ, injunction, stay, decree (including any consent decree), directive, or award of a court (including any bankruptcy court), administrative judge, or other Governmental Authority acting in an adjudicative, regulatory, or administrative capacity, or of an arbitrator with applicable jurisdiction over the subject matter.

“**Organizational Documents**” means, with respect to any Party, the certificate or articles of incorporation, organization or formation and by-laws, the limited partnership agreement, the partnership agreement, the limited liability company agreement or the trust agreement, or such other equivalent organizational documents of such Party.

“**Owned Real Property**” means (a) all real property owned by Seller and related to, used, or held for use in connection with the Business, together with all structures, facilities, fixtures, systems, improvements and items of property located thereon, or attached or appurtenant thereto, (b) the VCSNS 1 Real Property and the VCSNS 2 and 3 Real Property, and (c) all licenses and permits used or issued in connection with the operation of the foregoing real property (including, for example, crossing agreements, railroad crossing agreements, and other licenses).

“**Party**” and “**Parties**” have the meanings set forth in the Preamble.

“**Permits**” means all permits, certificates, licenses, franchises, exemptions, immunities, entitlements, registrations, variances, approvals, consents, waivers, or other similar authorizations of, or rights obtained from, Governmental Authorities.

“**Permitted Encumbrances**” means (a) those Encumbrances set forth on Schedule 1.1(b); (b) statutory liens for Taxes or assessments not yet due or delinquent or the validity or amount of which is being contested in good faith by appropriate proceedings; (c) mechanics’, carriers’, workers’, repairers’, landlords’, and other similar liens arising or incurred in the ordinary course of business that are not individually or in the aggregate material in amount or to the Business or the Purchased Assets, or the validity or amount of which is being contested in good faith by appropriate proceedings; (d) pledges, deposits, or other liens securing the performance of bids, trade contracts, leases, or statutory obligations (including workers’ compensation, unemployment insurance, or other social security legislation); (e) existing zoning, entitlement, restriction, and other land use and environmental regulations by Governmental Authorities (excluding any Seller Laws or New State Laws) that are not violated by the use and operation of the Owned Real Property or the Leased Real Property in the same manner as it is currently used and operated and which do not materially impair (i) the value of the affected Real Property or (ii) the use and operation of the affected Real Property in the same manner as it is currently used and operated; (f) all rights of any person under condemnation, eminent domain, or other similar proceedings which are pending prior to the Closing Date (other than any such proceeding commenced by any State Authority, railroad, or superior condemning authority on or after November 26, 2019); (g) all Encumbrances arising under approvals relating to the Business or Purchased Assets which have been issued by any Governmental Authority (other than by Seller or, to the extent issued on or after November 26, 2019, by any other State Authority); (h) Encumbrances created by or through Buyer as of the Closing; (i) the claim to title to assets and properties relating exclusively to VCSNS 2 and 3 asserted by Westinghouse Electric Company, LLC, as reorganized, in the Westinghouse Lawsuit; and (j) all exceptions, covenants, conditions, restrictions, Easements, imperfections of title, charges, rights-of-way, and other Encumbrances, in each case recorded in the applicable land records, that do not materially interfere with the present use of any Purchased Asset that is (or Purchased Assets that, in the aggregate, are) material to the Business, as currently conducted.

“**Permitted Investments**” (a) in the case of any Revenue Obligation and any Note evidencing any Revenue Obligation, has the meaning given such term under the Master Resolution and relevant Supplemental Resolution (if any), and (b) in the case of a Commercial Paper Obligation and any Note evidencing any Commercial Paper Obligation, has the meaning given the term “Defeasance Obligations” under the CP and Revolving Notes Resolution.

“**Person**” means an individual, corporation, partnership, limited liability company, trust, association, union, unincorporated organization, or other entity, including any Governmental Authority, and including any successor, by merger or otherwise, of any of the foregoing.

“**Personal Property**” has the meaning set forth in Section 5.22(a).

“**Post-Closing Taxes**” means all Taxes related to the Purchased Assets and Business for all Taxable Periods or portions thereof other than Pre-Closing Tax Periods.

“Pre-Closing Accounting Error” means an error or mistake in the historical financial statements of Seller prepared (and covering periods) prior to the Closing resulting from improper accounting for the financial results of the Business (e.g., unrecorded contingent liabilities for which the estimated low end of the range of incurred liability is greater than zero as of the applicable balance sheet date, or an error in the gross plant, accumulated depreciation reserve, or construction work in progress balances), which error or mistake: (a) (i) constitutes a violation of GAAP and is (or is required under GAAP to be) corrected through restatement of the applicable historical financial statements, or (ii) is an error or mistake that is (or is required under GAAP to be) corrected through a prospective adjustment, and (b) (i) results in a reduction to net plant in service, construction work-in-progress or non-current assets, (ii) results in an increase in non-current liabilities, or (iii) otherwise reduces rate base.

“Pre-Closing Accounting Error Adjustment Amount” means the amount, if any, by which the Actual Pre-Closing Accounting Error Amount exceeds \$25,000,000.

“Pre-Closing Accounting Error Amount” means, with respect to all Pre-Closing Accounting Errors (if any), an amount equal to the product of (a) the nominal reduction in rate base resulting from such Pre-Closing Accounting Errors, multiplied by (b) 1.7.

“Pre-Closing Debt Face Value” means an amount equal to the sum total of the outstanding principal amounts and stated redemption premiums (to the extent such premiums either are fixed amounts or are calculated based on a fixed percentage of principal amount) (if any) of all Debt Instruments that remain outstanding immediately prior to Closing (without duplication); provided, for the avoidance of doubt, the Pre-Closing Debt Face Value shall not include any Make-Whole Amounts (other than stated redemption premiums that are either fixed amounts or are calculated based on a fixed percentage of principal amount) or interest due or to become due on any Debt Instruments.

“Pre-Closing Debt Increase Amount” means the amount, if any, by which the Pre-Closing Debt Face Value exceeds the Aggregate Debt Amount.

“Pre-Closing Tax Period” means any Taxable Period ending at or before the Effective Time and the portion of any Straddle Tax Period ending at the Effective Time.

“Pre-Closing Taxes” means any Taxes related to the Purchased Assets and Business for all Pre-Closing Tax Periods.

“Preliminary Closing Statement” has the meaning set forth in Section 3.3(b).

“Product Development Activities” means the activities and programs described on Exhibit P.

“Prudent Utility Practices” means any of the practices, methods, and acts engaged in or approved by a significant portion of (a) the electric generation facility industry, in the case of the Generation Facilities (other than VCSNS 1) and the facilities and other property operated by Seller under the FERC License, (b) the commercial nuclear power generation industry, in the case of VCSNS 1, (c) the water utility industry, in the case of Lake Marion, South Carolina,

Lake Moultrie, South Carolina, and the Water Systems, and (d) the electric utility industry, in all other cases, or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, would reasonably be expected to accomplish the desired result at a reasonable cost consistent with applicable Law, reliability, and safety. For the avoidance of doubt, Prudent Utility Practices is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

“**PSCSC**” means the Public Service Commission of South Carolina.

“**PSCSC Approvals**” means all certificates, approvals, and orders to be issued or approved by the PSCSC pursuant to the Enabling Legislation, as set forth on Exhibit I. For the avoidance of doubt, the PSCSC Approvals include the Required CEU Financing Order and Required R&M Financing Order.

“**Purchase Price**” means the Base Purchase Price, as it may be adjusted in accordance with Section 3.3(j).

“**Purchase Price Escrow Agreement**” means an escrow agreement, to be dated as of the Closing Date, by and among Buyer, Seller, and the Escrow Agent, substantially in the form attached hereto as Exhibit J.

“**Purchase Price Escrow Amount**” means \$100,000,000.

“**Purchase Price Escrow Fund**” has the meaning set forth in Section 3.5.

“**Purchased Assets**” has the meaning set forth in Section 2.2.

“**Purchased Contracts**” means all contracts and agreements to which Seller is a party or by which Seller or any of its assets (including any Purchased Assets) may be bound that arise out of or relate to the Business, including all Material Contracts, other than (a) the Central Coordination Agreement and (b) contracts and agreements that are Excluded Assets.

“**Qualifying Offer**” has the meaning set forth in Section 7.7(b).

“**R&M Financing Order**” has the meaning set forth in Section 58-31-710 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation).

“**R&M Securitization Bonds**” has the meaning set forth in Section 58-31-710 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation).

“**Real Property**” means the Owned Real Property, the Leased Real Property, and the Easements.

“**Records**” means all information in tangible medium or that is stored in electronic or other medium and is retrievable.

“Recreational Operations” means Seller’s ownership and operation of parks, conference centers, and recreational facilities but excluding any FERC Project Assets and the Water Assets.

“Relevant Redeemable Bonds” means each of the Revenue Obligations issued by the Authority and listed in Exhibit T hereto.

“Reimbursement Agreement” means the Reimbursement Agreement, dated as of May 1, 2017, between Seller and Bank of America, N.A., relating to \$200,000,000 Seller Revenue Notes, Tax Exempt CP Sub-Series D and Taxable CP Sub-Series DD (as such term is used therein), as amended by the First Amendment to Reimbursement Agreement, dated as of August 15, 2019.

“Reimbursement Obligation” means any payment obligation of Seller arising under the Reimbursement Agreement.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, migrating, or disposing of Hazardous Materials into the Environment.

“Representatives” means, with respect to any Person, the officers, directors, employees, agents, accountants, advisors, counsel, consultants, bankers, and other representatives of such Person.

“Required CEU Financing Order” means the CEU Financing Order to be issued or approved, pursuant to Section 58-31-840 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation), by the PSCSC in the “Omnibus Initial Proceeding” described in Section 58-31-730 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation), providing for the recovery of at least \$[●] in Securitization Costs, plus costs associated with the issuance of the Securitization Bonds, from the proceeds of Securitization Bonds, which bonds will be paid from Securitization Charges (in each case, as such term is defined in Section 58-31-710 of the Code of Laws of South Carolina 1976, as enacted by the Enabling Legislation).

“Required R&M Financing Order” means the R&M Financing Order to be issued or approved, pursuant to Section 58-31-840 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation), by the PSCSC in the “Omnibus Initial Proceeding” described in Section 58-31-730 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation), providing for the recovery of at least \$[●] in Securitization Costs, plus costs associated with the issuance of the Securitization Bonds, from the proceeds of Securitization Bonds, which bonds will be paid from Securitization Charges (in each case, as such term is defined in Section 58-31-710 of the Code of Laws of South Carolina 1976, as enacted by the Enabling Legislation).

“Required Regulatory Approvals” means (a) the FERC Approvals, (b) the PSCSC Approvals, (c) the NRC Approvals, and (d) the additional approvals and notices set forth in Schedule 1.1(f).

“**Residential Lease**” means each residential and marginal lease to which Seller is a party.

“**Restoration Costs**” has the meaning set forth in Section 7.14(a).

“**Retained Action**” means any Action that is commenced against Seller before, on, or after the Execution Date that is not an Assumed Action, including any of the Actions listed on Schedule 2.5(e).

“**Revenue**” shall have the meaning given such term in the Master Resolution.

“**Revenue Obligations**” means each of the debt obligations of Seller issued pursuant to the Master Resolution and the relevant Supplemental Resolution.

“**Revolving Credit Agreement**” means any of the (a) Revolving Credit Agreement, dated as of September 22, 2015, by and between Seller and Barclays Bank PLC, as amended by the Amendment Agreement, dated as of June 9, 2017, (b) Revolving Credit Agreement, dated as of July 27, 2017, by and between Seller and TD Bank, N.A., and (c) Revolving Credit Agreement, dated as of August 1, 2017, by and between Seller and JPMorgan Chase Bank, National Association.

“**Revolving Loan**” means a loan under a Revolving Credit Agreement.

“**Sample Statement**” has the meaning set forth in Section 3.3(b).

“**Santee Cooper Regional Water System**” means the regional water distribution system and utility business operated on Lake Moultrie, South Carolina, that includes a pipeline system to deliver drinking water to the Lake Moultrie Water Agency, a treatment plant, pump stations and other associated facilities.

“**SCE&G**” means South Carolina Electric & Gas Company, now known as Dominion Energy South Carolina, Inc.

“**Schedule Update**” has the meaning set forth in Section 7.20.

“**Securities Act**” means the Securities Act of 1933.

“**Securitization**” means, collectively, the (a) issuance, sale, and delivery of CEU Securitization Bonds pursuant to the Required CEU Financing Order and associated transaction documents, and (b) issuance, sale, and delivery of R&M Securitization Bonds pursuant to the Required R&M Financing Order and associated transaction documents.

“**Seller**” has the meaning set forth in the Preamble.

“**Seller 401(a) Plan**” has the meaning set forth in Section 7.8(d).

“**Seller Consents**” has the meaning set forth in Section 5.4.

“**Seller Disclosure Schedules**” means, collectively, all of the Schedules delivered by Seller to Buyer in connection with this Agreement to qualify (or disclose information for purposes of) representations or warranties of Seller set forth in Article V. For the avoidance of doubt, the Seller Disclosure Schedules do not include any Schedule that is not expressly referenced in Article V and does not expressly correspond to a Section or sub-Section of Article V (as reflected in the numbering of such Schedule).

“**Seller Law**” means any Law or Order of Seller, including any Law or Order issued, adopted, enacted, promulgated, or otherwise established by the board of directors of Seller.

“**Seller Marks**” means all registered and unregistered trademarks, service marks, trade names, logos, Internet domain names, and any applications for registration of any of the foregoing, together with all goodwill associated with each of the foregoing (“**Trademarks**”), owned or used by Seller, including all Trademarks that include the term “Santee Cooper” or “South Carolina Public Service Authority” and all Trademarks related thereto or containing or comprising the foregoing, including any Trademarks confusingly similar thereto or dilutive thereof (including any word or expression similar thereto or constituting an abbreviation or extension thereof).

“**Seller’s Charter**” means Act No. 887 of the General Assembly of the State of South Carolina, Regular Session of 1934, codified as Title 58, Chapter 31 of the Code of Laws of South Carolina 1976, and acts supplemental thereto and amendatory thereof.

“**Seller’s Knowledge**”, or words to similar effect, means the actual (but not constructive or imputed, except as expressly provided in this definition) knowledge of the persons listed on Schedule 1.1(c) as of the Execution Date (or (a) with respect to a certificate delivered pursuant to this Agreement, as of the date of delivery of such certificate, or (b) for purposes of determining the truth and correctness of any representation or warranty as of the Closing Date pursuant to Section 8.2(b), as of the Closing Date), or the knowledge that such persons would have as of the Execution Date (or as of such other date) after reasonable inquiry of their direct reports or such other Persons who are responsible for the particular function relating to the matter of the inquiry or otherwise would reasonably be expected to know such information.

“**Seller’s Proposal**” has the meaning set forth in the Recitals.

“**SEPA Contract**” means that certain Contract, executed September 13, 1985, by and between the United States of America, Department of Energy, acting by and through the Southeastern Power Administrator, and Seller, as amended and supplemented.

“**SERC**” means SERC Reliability Corporation or its successor.

“**Service Territory**” means the areas and entities to which Seller is providing or is legally authorized to provide service, including the exclusive service area of Seller as established in Section 58-31-330 of the Code of Laws of South Carolina 1976.

“**Standard Contract**” means DOE Contract No. DE CR01 83NE44417, Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste dated June 27, 1983, as

amended for the acceptance of spent nuclear fuel and high-level radioactive waste (SNF/HLW) under the Nuclear Waste Policy Act, the material terms of which are reproduced at 10 C.F.R. § 961.11.

“Standard Contract Settlement Agreement” means the Settlement Agreement entered into by SCE&G, Seller, and the U.S. Department of Justice to settle claims for the U.S. DOE’s breach of the Standard Contract.

“State Authority” means any of (a) the State of South Carolina or any governmental body thereof, (b) any county, city, municipality, or other political or other subdivision of the State of South Carolina, or any governmental body thereof, or (c) any department, branch, or court of any of the foregoing, or any governmental, quasi-governmental, regulatory, or administrative agency, commission, department, bureau, committee, board, body, official, or other authority, or any court, tribunal, or arbitral body, exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory, or taxing authority or power of or by any of the foregoing. For the avoidance of doubt, each of the General Assembly, the Governor of the State of South Carolina, the PSCSC, and Seller constitute State Authorities.

“State Law” means any Law of any State Authority.

“State Order” means any Order of any State Authority, including any court, administrative judge, or arbitrator that constitutes a State Authority.

“State-Initiated Legal Restraint” means any (a) State Law or State Order (other than a State Order issued pursuant to an Action commenced by a Person that is not a State Authority, which Action is not supported by any State Authority), (b) other legal restraint or prohibition imposed by any State Authority (other than a legal restraint or prohibition imposed pursuant to an Action commenced by a Person that is not a State Authority, which Action is not supported by any State Authority), or (c) Order or other legal restraint or prohibition issued at the request of a State Authority, in each case of the foregoing clauses (a) through (c), that preliminarily, temporarily, or permanently restrains, enjoins, or otherwise prevents the consummation of the transactions contemplated by this Agreement or any of the Ancillary Agreements.

“State-Initiated Litigation” means any Action by any State Authority that would, if adversely determined, enjoin, restrain, condition, make illegal, or otherwise prohibit the transactions contemplated by this Agreement or any Ancillary Agreement.

“Straddle Tax Period” means any Taxable Period that begins at or before the Effective Time and ends after the Effective Time.

“Supplemental Resolution” means any of the supplemental resolutions adopted by Seller in connection with its issuance and sale of its outstanding Revenue Obligations pursuant to the Master Resolution.

“Supporting Assets” means the facilities, equipment, and other tangible property and assets used or held for use in connection with, or related to, the Product Development Activities, Recreational Operations, or Economic Grants Programs.

“**Survey**” has the meaning set forth in Section 7.21(b).

“**Surviving Obligations**” has the meaning set forth in Section 9.1.

“**System Control Center**” means Seller’s control room facility for transmission system operations and general dispatch located at [●], together with all ancillary equipment, tangible personal property, real property, and assets.

“**Taking**” has the meaning set forth in Section 7.14.

“**Target Decommissioning Funds**” means \$232,800,000.

“**Target Net Working Capital**” means \$417,154,000.

“**Tax**” and “**Taxes**” means all federal, state, local, or foreign charges or liabilities in the nature of a tax or of a payment in lieu of a tax, including income (or payments in lieu of income), gross receipts, franchise, license, sales, use, value added, excise, withholding, payroll, employment, unemployment, escheat, unclaimed property, environmental, stamp, real or personal property (or payments in lieu of property), occupation, customs, duties, or other similar taxes, together with any interest, additions, or penalties with respect thereto and any interest in respect of such additions or penalties, whether disputed or not, including any obligation (by Law, contract or otherwise) to indemnify or otherwise discharge any Tax liability of any other Person.

“**Tax Contest**” has the meaning set forth in Section 5.15(b).

“**Tax Return**” means any return, report, election, declaration, information return, or other document, including any schedules thereto or amendments thereof, provided, or required to be filed with any Governmental Authority with respect to Taxes.

“**Taxable Period**” means any taxable year or other period with respect to which any Tax may be imposed under any applicable statute, rule, or regulation.

“**Tenant Notice**” has the meaning set forth in Section 4.3(o).

“**Termination Amount**” has the meaning set forth in Section 10.2(c)(ii).

“**Termination Date**” has the meaning set forth in Section 10.1(b).

“**Termination Fee**” has the meaning set forth in Section 10.2(c)(ii).

“**Title Insurance Policy**” has the meaning set forth in Section 7.21(a).

“**Trademarks**” has the meaning set forth in the definition of “Seller Marks”.

“**Transfer Instruments**” means the Bill of Sale, the Assumption Agreement, the Deeds, the Assignment of Contracts, the Assignment of Leases, the Assignment of Easements, and the Omnibus Assignment of Easements.

“**Transferable Permits**” has the meaning set forth in Section 2.2(c).

“**Transferred Employee**” has the meaning set forth in Section 7.7(b).

“**Transition Period**” has the meaning set forth in Section 7.9(a).

“**Transmission Assets**” means the electric transmission facilities, equipment, and other tangible personal property, real property, and physical assets used or held for use in connection with, or related to, the Business or located on the Real Property, including the facilities, equipment, and other tangible property and physical assets that connect the Distribution Assets to the electric transmission system interconnection points (and other property and physical assets associated with or ancillary thereto), the facilities, equipment, and other tangible property and physical assets that connect to the Delivery Points for those Customers interconnected to the electrical transmission system (and other property and physical assets associated with or ancillary thereto), transmission substation equipment, circuits and associated facilities, buildings, material, equipment and hardware (including breakers, switches and switchgear, regulators, capacitor banks, reclosers, arresters, and protective equipment), transformers, instrument transformers, substation structures, substations, buswork, substation battery and chargers, relay protection panels, relay communications/carriers, remote telemetry and control equipment, metering, fault recorders, sequence of event recorders, annunciators, substation fencing, transmission lines, and associated physical assets (including structures, poles, conductors, cables, wires, insulators, conduits, manholes, vaults, enclosures, metering, and outdoor lights), whether located above ground or underground, but excluding the FERC Project Assets.

“**VCSNS 1**” means Unit 1 of the Virgil C. Summer Nuclear Station, including the ISFSI thereon.

“**VCSNS 1 Real Property**” means all of Seller’s right, title, and interest in and to all of the Real Property used or held for use by Seller or SCE&G in connection with the construction, ownership, operation, and Decommissioning of VCSNS 1 and its ISFSI.

“**VCSNS 2 and 3**” means Units 2 and 3 of the Virgil C. Summer Nuclear Station.

“**VCSNS 2 and 3 Real Property**” means all of Seller’s right, title, and interest in and to all of the Real Property used or held for use by Seller or SCE&G in connection with the construction of VCSNS 2 and 3.

“**Vehicles**” has the meaning set forth in Section 2.2(a)(xi).

“**Vendor Notice**” has the meaning set forth in Section 4.3(p).

“**Verification Reports**” has the meaning set forth in Section 3.2.

“**WARN Act**” has the meaning set forth in Section 5.17(f).

“**Water Assets**” means (a) the Water Systems and (b) all equipment, tangible personal property, real property, and other assets ancillary to the Water Systems; provided, however, the Water Assets shall not include any FERC Project Assets.

“**Water Business**” means the wholesale water utility business associated with the Water Systems, and the ownership, lease, maintenance, development, construction, expansion, financing, and operation of the Water Assets, but excluding the FERC Project Business.

“**Water Systems**” means the Santee Cooper Regional Water System and the Lake Marion Regional Water System.

“**Westinghouse Lawsuit**” means *Westinghouse Electric Company LLC, as reorganized v. South Carolina Public Service Authority*, Adv. Pro. No. 19-01109 (CGM) in the bankruptcy case of *In re Westinghouse Electric Company LLC, et al.* (case no. 17-10751 in the United States Bankruptcy Court, Southern District New York).

“**Willful Breach**” means a breach by a Party of any of its covenants or other agreements in this Agreement that is a consequence of a deliberate act or deliberate failure to act that (i) is undertaken by such Party with the actual knowledge (which, in the case of Seller, shall mean the actual knowledge of those persons set forth on Schedule 1.1(c) or any successor to any such Person’s position with Seller, and which, in the case of Buyer, shall mean the actual knowledge of those persons set forth on Schedule 1.1(d) or any successor to any such Person’s position with Buyer) that the taking of or failure to take such act would, or would reasonably be expected to, cause or constitute a material breach of any such covenants or agreements, and (ii) does, in fact, cause or constitute a material breach of such covenants or agreements. Without limiting the foregoing, if all of the applicable conditions to the Closing set forth in Article VIII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, which conditions would be capable of being satisfied at the time of such failure to consummate the acquisition of the Purchased Assets, the assumption of the Assumed Obligations and the other transactions contemplated by this Agreement to be completed at the Closing) but Buyer fails to complete the Closing for any reason, such failure shall be considered a Willful Breach by Buyer, and the availability or unavailability to Buyer of Financing for the transactions contemplated by this Agreement shall have no effect on Buyer’s obligations to complete the Closing, for purposes of this definition or for any other purpose in this Agreement.

Section 1.2. Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement (including the Recitals hereof), the following rules of interpretation shall apply:

(a) Exhibits, Schedules, Articles, and Sections. Unless otherwise expressly indicated, any reference in this Agreement to an Exhibit, Schedule, Article, Section, subsection, clause, or other subdivision refers to the corresponding Exhibit, Schedule, Article, Section, subsection, clause, or other subdivisions of or to this Agreement. The Exhibits and Schedules attached to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or

Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Unless otherwise specified, any event hereunder requiring any action of a Party, including the payment of Cash and Cash Equivalents, on a day that is not a Business Day shall be deferred until the next Business Day. Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the time period commences and including the day on which the time period ends and by extending the period to the next Business Day following if the last day of the time period is not a Business Day. Unless otherwise specified, all references to a specific time of day in this Agreement will be based upon Eastern Standard Time or Eastern Daylight Savings Time, as applicable, on the date in question in New York City, New York.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter. Terms defined in the singular have the corresponding meanings in the plural, and vice versa.

(d) Certain Terms. If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). The words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear. The word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The word “extent” in the phrase “to the extent” shall mean the degree, if any, to which a subject or thing extends, and such phrase shall not mean simply “if”. The word “or” shall be disjunctive but not exclusive. The word “will” shall have the same meaning as the word “shall”. A reference to any party to this Agreement or any other agreement or document shall include such party’s successors and permitted assigns. Except with respect to the Enabling Legislation or any Seller Law, a reference to any legislation or to any provision of any legislation shall include any amendment thereto, any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Agreement.

(f) Currency. All references to “\$” or currency herein shall be to, and all payments required hereunder shall be paid in, United States Dollars.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(h) Amendments, Supplements and Modifications. Except as otherwise specifically provided in this Agreement, any agreement, instrument, or writing defined or referred to herein means such agreement, instrument, or writing, as from time to time amended, supplemented, or modified (but excluding any such amendment, supplement, or modification that was implemented in violation of the terms of this Agreement).

(i) Joint Participation. The Parties have participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

(j) Commercially Reasonable Efforts. Where this Agreement requires a Party to use “commercially reasonable efforts” to take a specified action or achieve a specified result, it shall mean that such Party is obligated to use the efforts that a reasonable Person under similar circumstances would use to take such action or cause such result to occur within the time contemplated by this Agreement but which do not require the performing Person to expend any funds or assume or incur any liabilities other than expenditures or liabilities that are reasonable in nature and amount, and that are otherwise consistent with usual commercial practice, in such circumstances or in the context of transactions of the type contemplated hereby. Other usages of the phrase “commercially reasonable” shall be interpreted in a manner consistent with the foregoing.

ARTICLE II

PURCHASE AND SALE

Section 2.1. Transaction. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, (a) Seller will sell, assign, convey, transfer, and deliver to Buyer, and Buyer will purchase, accept, and acquire from Seller, free and clear of all Encumbrances (other than Permitted Encumbrances), the Purchased Assets as they exist as of the Effective Time, and (b) Buyer will assume and become responsible for all of the Assumed Obligations without recourse to Seller or the State of South Carolina, and thereafter pay, perform, and discharge when due, the Assumed Obligations. Nothing in the foregoing clause (b) shall in any way limit Buyer’s recourse or remedies against Seller with respect to the Surviving Obligations or Fraud by Seller.

Section 2.2. Purchased Assets. For purposes hereof, the term “**Purchased Assets**” shall mean all of Seller’s right, title, and interest in, to, and under all of the assets, properties, and rights of every kind, nature, character, and description (wherever located), whether real, personal, or mixed, whether tangible or intangible, whether now existing or hereafter acquired, that are used or held for use in connection with, or otherwise relate to, the Business (other than the Excluded Assets), including the assets, properties, and rights referred to below:

- (a) the following real property and personal property:

- (i) the Generation Facilities;
 - 2.2(a)(ii);
 - (ii) the Transmission Assets, including as described on Schedule
 - 2.2(a)(iii);
 - (iii) the Distribution Assets, including as described on Schedule
 - 2.2(a)(iv);
 - (iv) the FERC Project Assets, including as described on Schedule
 - (v) the Water Assets, including as described on Schedule 2.2(a)(v);
 - (vi) the Owned Real Property, including the Legacy Leased Properties (to the extent acquired by Seller prior to the Closing Date);
 - (vii) the Leased Real Property, including the Legacy Leased Properties (and all rights to acquire the Legacy Leased Properties, including any such right arising under the Central Coordination Agreement);
 - (viii) the Easements;
 - (ix) the Inventory;
 - (x) the information technology and communications equipment used or held for use in connection with, or related to, the Business, including as described on Schedule 2.2(a)(x) (the “**IT Assets**”);
 - (xi) all motor vehicles, trailers, and similar rolling stock used or held for use in connection with, or related to, the Business, including as described on Schedule 2.2(a)(xi) (collectively, the “**Vehicles**”);
 - (xii) the furnishings, fixtures, machinery, equipment, materials, tools, works in progress, and other tangible personal property that are used or held for use in connection with, or related to, the Business (in addition to Inventory, IT Assets, and Vehicles, which are covered by clauses (ix) through (xi) above);
 - (xiii) the Supporting Assets, including as described on Schedule 2.2(a)(xiii); and
 - (xiv) the materials, equipment, and other tangible property remaining on the VCSNS 2 and 3 Real Property or otherwise used or held for use in connection with, or related to, VCSNS 2 and 3 (or the halted construction thereof);
- (b) the Purchased Contracts, including as set forth on Schedule 2.2(b) (and including all Franchises, the Standard Contract, and the Standard Contract Settlement Agreement), subject to Section 7.4(b);

(c) the Permits used or held for use by Seller in connection with (or held by Seller and related to or necessary for) the operation of the Business or the ownership or operation of the Purchased Assets, including the Material Permits, the Material Environmental Permits, and the items set forth on Schedule 2.2(c), subject to Section 7.4(b), except to the extent that any such Permits are prohibited by applicable Law or Order (other than any Seller Law) from being assigned to Buyer in connection with the transactions contemplated hereby (the “**Transferable Permits**”);

(d) all Intellectual Property (including software or other Intellectual Property licenses) used or held for use in, necessary for the operation of, or related to the Business or operation of the other Purchased Assets, including the Intellectual Property listed on Schedule 2.2(d), but excluding the Seller Marks (the “**Assigned IP**”);

(e) all rights, claims (including for indemnity or contribution), causes of action, lawsuits, judgments, and demands of any nature available to or being pursued by Seller, whether arising by way of counterclaim or otherwise, and all defenses and other immunities that would otherwise be available to Seller if such rights, claims, causes of action, lawsuits, judgments, or demands were retained by Seller, against third parties (including indemnification and contribution) to the extent related to the Business, any Assumed Obligations, or any other Purchased Assets (and except to the extent relating to an Excluded Asset or an Excluded Liability), whether choate or inchoate, known or unknown, contingent or non-contingent, including the claims listed on Schedule 2.2(e);

(f) all accounts receivable, notes receivable, rights to payment, and other receivables due to Seller that arise out of the operation of the Business, together with any unpaid interest or fees accrued thereon or other amounts due with respect thereto;

(g) all credits, prepaid expenses, security deposits, claims for refunds, and rights to offset in respect thereof relating to the Business;

(h) all regulatory assets, including recoverable environmental costs, relating to Purchased Assets, Assumed Obligations, or the Business (excluding any regulatory assets described in Section 2.3(o));

(i) the Documents;

(j) the assets of the Decommissioning Funds;

(k) all nuclear property insurance policies, nuclear liability insurance policies, and other third-party liability insurance policies relating to nuclear operations (including all insurance policies relating to third party nuclear liability and on-site nuclear property damage) that are maintained by or for Seller, or under which Seller is an additional insured or beneficiary, and all rights, claims, or causes of action thereunder;

(l) (i) all rights, claims, and benefits (including any rights to proceeds) arising prior to the Effective Time under any insurance policies maintained by or for Seller (and all causes of action in respect thereof) relating to the Purchased Assets, the Assumed Obligations, or

the Business, and (ii) all insurance benefits, including rights and proceeds, arising from or relating to the Purchased Assets or the Assumed Obligations, in each case other than (A) rights, claims, benefits, and proceeds with respect to damages that have been repaired or replaced in full by Seller prior to the Effective Time, and (B) rights, claims, benefits, and proceeds to the extent relating to Excluded Liabilities;

(m) the System Control Center;

(n) all unexpired warranties, indemnities, and guarantees, and all similar rights against third parties, to the extent related to any Purchased Assets (including any unexpired warranties or guarantees from third parties in relation to any Purchased Contracts), subject to Section 7.4(b);

(o) all employment agreements or retention agreements entered into between Seller and any Transferred Employee, to the extent set forth on Schedule 2.2(o) and to the extent obligations of Seller remain outstanding as of Closing, in each case other than any such employment or retention agreement entered into on or after [●], 2020⁴ without Buyer's prior written consent (in accordance with Section 7.1) (such assigned employment and retention agreements, the “**Assigned Employment Agreements**”);

(p) (i) all Acquired Accounts (but excluding any Cash and Cash Equivalents held in the Acquired Accounts at or before the Effective Time) and (ii) notwithstanding the foregoing, all rights to and funds in any security deposits or escrow accounts maintained by Seller on behalf of customers or other third parties;

(q) all assets, properties, and rights of the Business reflected in the Balance Sheet or the notes thereto, other than, for the avoidance of doubt, those identified as Excluded Assets in Section 2.3; and

(r) the assets and other rights specifically set forth on Schedule 2.2(r).

Section 2.3. Excluded Assets. Notwithstanding any provision to the contrary in Section 2.2 or elsewhere in this Agreement, the Purchased Assets do not include the following property, assets, or rights of Seller (such excluded property, assets, and rights, the “**Excluded Assets**”):

(a) Cash and Cash Equivalents;

(b) all books and records other than the Documents;

⁴ **NEE Note to Draft:** Date to coincide with the date of the last disclosure schedules reviewed prior to signing the Agreement to Transact. Anything that exists as of such date needs to be listed on Schedule 2.2(o) or it is not assumed. Buyer does not expect anything to be listed other than what was listed in November 2019.

(c) all Seller Marks, including Seller's rights in the names and marks set forth on Schedule 2.3(c) and any variation or derivation thereof;⁵

(d) all accounting records (including records relating to Taxes) and internal reports relating exclusively to the assets of Seller that are not Purchased Assets (and not otherwise relating to any Assumed Obligations);

(e) any refund or credit, claim for refund or credit, or right to receive any refund or credit that is actually received within two taxable years after the Closing Date with respect to Taxes relating to the Business, the Purchased Assets, or the Assumed Obligations for, or applicable to, any taxable period (or portion thereof) ending at or prior to the Effective Time, whether such refund is received as a payment or as a credit, abatement, or similar offset against future Taxes payable; *provided, however*, that a refund, credit, claim for refund or credit, or right to receive refunds or credits with respect to Taxes shall be a Purchased Asset and not an Excluded Asset to the extent that it is or has been taken into account in the determination of Net Working Capital;

(f) except as otherwise expressly provided in Section 2.2(k) and Section 2.2(l), all insurance policies, and rights, claims, or causes of action thereunder; provided that the foregoing exclusion shall in no way limit Seller's obligations with respect to insurance under Section 7.19;

(g) except as otherwise expressly provided in Section 2.2(o), Section 7.7 or Section 7.8, all Benefit Plans and all assets under or relating to any Benefit Plan;

(h) all rights, claims, causes of action, and defenses against third parties to the extent (and only to the extent) directly and exclusively relating to any Excluded Asset or any Excluded Liability, including (i) all such rights, claims, and causes of action of Seller with respect to the Retained Actions and (ii) any defenses of Seller in respect of Seller's sovereign immunity with respect to such rights, claims, and causes of action;

(i) the rights of Seller arising under or in connection with this Agreement, any instrument, certificate, or other document executed or delivered in connection herewith, and any of the transactions contemplated hereby and thereby;

(j) the records and litigation databases maintained by Seller or Seller's counsel with respect to the Retained Actions;

(k) any employment agreement or retention agreement entered into between Seller and any current or former director, officer, or employee of Seller (including any Transferred Employee or other Business Employee) that does not constitute an Assigned Employment Agreement;

⁵ **NEE Note to Draft:** Buyer would be pleased to continue to incorporate "Santee Cooper" into the utility's name going forward, as reflected in the bid cover letter. Should Seller prefer that, appropriate changes would need to be made to the applicable provisions of this Agreement.

(l) any indemnification, reimbursement, or similar agreement between Seller and any current or former director, officer, employee, or agent of Seller (including any Transferred Employee or other Business Employee);

(m) (i) the Central Coordination Agreement (excluding any right to acquire any Legacy Leased Property that arises thereunder, which shall be a Purchased Asset pursuant to Section 2.2(a)(vii)), (ii) the SEPA Contract, (iii) other contracts or agreements listed on Schedule 2.3(m), (iv) any contract or agreement that is described in any of clauses (i) through (xxvii) of Section 5.8(a) and exists on the Execution Date but is not disclosed on Schedule 5.8(a) on the Execution Date that Buyer elects not to assume, whether discovered before or after Closing, and (v) any contract or agreement to which Seller becomes a party or by which Seller becomes bound after the Execution Date in violation of Section 7.1 that Buyer elects not to assume, whether discovered before or after Closing;⁶

(n) the corporate seals and Organizational Documents of Seller;

(o) any regulatory assets directly related to Excluded Liabilities, and any regulatory assets directly related to VCSNS 2 and 3;

(p) any membership in, and any stock, membership interests, limited liability company interests, partnership interests, or other equity or ownership interests (or rights to acquire, securities convertible into, or securities exercisable for equity or ownership interests) in, (i) The Energy Authority, Inc., or (ii) TEA Solutions, Inc.;

(q) any properties, assets, or rights that are not used (or held for use) in connection with, and are not otherwise related to or necessary for, the Business; and

(r) the hedge agreements relating to the Business (excluding those set forth on Schedule 2.3(r)), and any hedge transactions thereunder;

(s) the assets and other rights set forth on Schedule 2.3(s).

Section 2.4. Assumed Obligations. In connection with the purchase and sale of the Purchased Assets pursuant to this Agreement, upon the terms and subject to the satisfaction of the conditions contained in this Agreement, on the Closing Date, Buyer shall assume and pay, discharge, perform, or otherwise satisfy when due, only those liabilities and obligations that are specifically listed below, as the same shall exist from and after the Effective Time (collectively, but excluding the Excluded Liabilities, the “**Assumed Obligations**”):

(a) all current liabilities of the Business, to the extent included in the calculation of current liabilities in accordance with Exhibit L-1 and Exhibit L-2;

(b) the following liabilities of Seller (x) construction liabilities/accruals with respect to Purchased Assets, (y) asset retirement obligations (including with respect to coal ash pond and nuclear decommissioning), and (z) liabilities relating to customer paid jobs, in each

⁶ **NEE Note to Draft:** Schedule 2.3(m) to be updated by Buyer if necessary prior to signing APA.

case, arising out of or relating to the ordinary course conduct of the Business that remain unpaid (and are not delinquent) as of the Effective Time, and are either (i) reflected on the face of the Balance Sheet, or (ii) incurred subsequent to the date of the Balance Sheet in the ordinary course of business consistent with past practice and otherwise in accordance with Section 7.1;

(c) all liabilities and obligations of Seller (i) under the Purchased Contracts, other than any liabilities or obligations to the extent arising out of or relating to any actual, threatened, or alleged default, breach, or violation (or an event that, if not cured, would be a default, breach, or violation) under any Purchased Contract by Seller prior to the Effective Time, or (ii) arising after the Effective Time under the Transferable Permits;

(d) all liabilities and obligations (including financial assurance obligations) of Seller relating to the Business or any Purchased Asset, or attributable to the ownership of the Business or any Purchased Asset, arising under, based upon, or relating to any Environmental Law, Environmental Permit, Environmental Claim, or actual, threatened, or pending Release of Hazardous Materials, in each case, to the extent arising after the Effective Time;

(e) all liabilities and obligations with respect to any Assigned Employment Agreement;

(f) all liabilities and obligations of Seller under any Order set forth on Schedule 5.9(b) to the extent arising out of or relating to Buyer's conduct or operation of the Business or Buyer's ownership or use of the Purchased Assets after the Effective Time;

(g) all liabilities and obligations of Seller to the extent arising from or related to the Assumed Actions;

(h) all liabilities and obligations of Seller for which Buyer is expressly responsible pursuant to Section 7.6(a);

(i) all other liabilities and obligations set forth on Schedule 2.4(i);⁷ and

(j) all liabilities and obligations arising out of or relating to the conduct or operation of the Business or the ownership, use, or operation of the Purchased Assets after the Effective Time.

Section 2.5. Excluded Liabilities. Notwithstanding any other provision of this Agreement to the contrary, Buyer is not assuming and shall not be obligated to pay, perform, discharge, or otherwise satisfy, and Seller shall retain, pay, perform, discharge, or otherwise satisfy, any and all liabilities or obligations of Seller, of any kind or nature, whether known or unknown, that are not specifically listed as an Assumed Obligation (collectively, the "**Excluded Liabilities**"). Without limiting the generality of the foregoing, and notwithstanding anything to

⁷ **NEE Note to Draft:** Schedule 2.4(i) to be updated by Buyer prior to signing to reflect any liabilities that were not disclosed prior to signing the Agreement to Transact (including new liabilities that arise prior to signing this Agreement).

the contrary in this Agreement (including in Section 2.4), the Excluded Liabilities include the following:

(a) any liabilities or obligations of any kind or nature (i) arising out of, relating to, or in respect of any Business Employee or any other current or former director, officer, or employee of Seller other than any Transferred Employee, (ii) expressly retained by Seller pursuant to Section 7.7(c), (iii) except as otherwise expressly assumed by Buyer pursuant to Section 2.4(e), arising out of, relating to, or otherwise in respect of (A) any employment agreement or retention agreement entered into between Seller and any current or former director, officer, or employee of Seller (including any Transferred Employee or other Business Employee), or (B) any consulting or independent contractor agreement entered into between Seller and any current or former independent contractor or consultant of Seller, or (iv) except as otherwise expressly assumed by Buyer pursuant to Section 2.4(e) or Section 7.8, arising out of, relating to, or in respect of any Benefit Plan, including Seller's (A) liabilities or obligations with respect to pension or retirement benefits for any current or former director, officer, or employee of Seller (including any Transferred Employee or other Business Employee) or any other Person, (B) liabilities or obligations with respect to supplemental executive retirement plan benefits for any current or former director, officer, or employee of Seller (including any Transferred Employee or other Business Employee) or any other Person, (C) liabilities or obligations with respect to post-employment welfare benefits for any current or former director, officer, or employee of Seller (including any Transferred Employee or other Business Employee) or any other Person, and (D) Controlled Group Liabilities;

(b) any payments due in respect of, or other liabilities or obligations of any kind or nature arising out of or relating to, (i) the Debt Instruments (provided, that this exclusion has no impact on the terms of Section 3.2 and the payment by Buyer of the Debt Release Consideration) or (ii) any other Indebtedness of Seller;

(c) any liability or obligation of Seller of any kind or nature (i) under or arising out of the Purchased Contracts to the extent such liabilities or obligations arise out of or relate to a default, breach, or violation (or an event that, if not cured, would be a default, breach, or violation) by Seller of such Purchased Contract at or prior to the Effective Time, or (ii) arising at or before the Effective Time under the Transferable Permits;

(d) any liability or obligation of Seller of any kind or nature arising from or related to any compliance or noncompliance at or prior to the Effective Time with any Law or Order applicable to Seller, the Business, the Purchased Assets, or the Assumed Obligations;

(e) any liability, damage, loss, settlement payment, or other obligation of any kind or nature arising from or related to the Retained Actions;

(f) any liability or obligation of any kind or nature arising out of or related to any contract or agreement that is an Excluded Asset, including (i) the Central Coordination Agreement, (ii) the SEPA Contract, (iii) any of the other contracts or agreements listed on Schedule 2.3(m), or (iv) any other contract or agreement identified as an Excluded Asset under Section 2.3(m);

(g) any liability or obligation of Seller of any kind or nature arising from or related to the negligence, gross negligence, recklessness, misconduct, or fraud (including securities fraud) of, or any other breach of any fiduciary or other legal duty by, Seller, SCE&G, or any of their respective Affiliates (or any current or former Representatives of Seller, SCE&G, or any of their respective Affiliates) in connection with the proposed or actual development, design, financing, construction, commissioning, testing, ownership, operation, or maintenance of any Purchased Asset or the proposed or actual conduct, operation, ownership, or financing of the Business, including any liability or obligation under that certain Design and Construction Agreement, dated October 20, 2011, by and between Seller and SCE&G;

(h) any liability or obligation of Seller of any kind or nature arising out of or related to (i) VCSNS 2 and 3 or (ii) the Design and Construction Agreement, dated October 20, 2011, by and between Seller and SCE&G, in each case, whether arising before, on, or after the Effective Time;

(i) any liability or obligation of any kind or nature for or with respect to (i) Taxes relating to or imposed with respect to the Business, the Purchased Assets, or the Assumed Obligations for, or applicable to, any taxable period (or portion thereof) occurring at or before the Effective Time (provided that any Taxes that are payable for a Straddle Tax Period shall be apportioned pursuant to Section 7.6(b)), or (ii) Taxes of or with respect to the Seller or any Affiliate of the Seller not relating to the Business, the Purchased Assets, or the Assumed Obligations (including, for the avoidance of doubt, any liability or obligation of any kind or nature for or with respect to the Taxes described in that certain Explanation of Audit Assessments and Adjustments dated May 31, 2018 issued by the Department of Revenue of the State of South Carolina to SCE&G or the matters described on Schedule 5.15);

(j) any liability or obligation of any kind or nature pertaining to the period prior to the Effective Time, or otherwise arising from or in respect of any act, omission, event, circumstance, or condition that arose, occurred, or existed prior to the Effective Time, to the extent Seller would not have been subject to such liability or obligation prior to the Effective Time (whether by virtue of sovereign immunity or otherwise); provided that this exclusion shall not operate to limit any obligation or liability of Buyer arising from the continuing existence of any such circumstance or condition, or the recurrence of any such act, omission, or event, after the Effective Time, to the extent Buyer would otherwise be responsible therefor under applicable Law;

(k) any liability or obligation of Seller of any kind or nature to indemnify, reimburse, or advance amounts to any current or former director, officer, employee, or agent of Seller (including any Transferred Employee or other Business Employee), or any liability or obligation relating to or arising out of (i) any indemnification, reimbursement, or similar agreement between Seller and any current or former director, officer, employee, or agent of Seller (including any Transferred Employee or other Business Employee), or (ii) any breach of any fiduciary or other duty by, any nonfeasance, misfeasance, malfeasance, or waste by, or any other violation of any Law by any current or former director, officer, employee, or agent of Seller (including any Transferred Employee or other Business Employee);

(l) any liability or obligation of Seller of any kind or nature arising under, based upon, or relating to any Seller Law or any New State Law;

(m) except as expressly provided in Section 7.3, any liability or obligation of Seller of any kind or nature for or in respect of costs or expenses incurred by Seller in connection with (i) the Bidding Process or (ii) this Agreement or the transactions contemplated hereby, including, in each case, legal or financial advisory fees; and

(n) any liability or obligation of any kind or nature relating to, or arising out of, (i) an Excluded Asset, or (ii) Seller's conduct or operations, or Seller's ownership, use, or operation of its assets, properties, or rights (including its performance of or compliance with its contracts, agreements, and Permits), from and after the Effective Time; provided that this exclusion shall in no way limit Buyer's obligations under Section 7.4(b).

ARTICLE III

PURCHASE PRICE

Section 3.1. Purchase Price. As consideration for the sale, assignment, transfer, conveyance, and delivery of the Purchased Assets pursuant to, and upon the terms and subject to the conditions contained in, this Agreement:

(a) on the Closing Date, Buyer agrees to pay (or cause to be paid) to Seller, in accordance with Section 4.2(a) and Section 7.3, in cash an amount equal to (i) the Closing Fixed Payment Amount plus (ii) the Expense Reimbursement Amount (the "**Closing Date Payment**");

(b) on the Closing Date, Seller shall be entitled to have disbursed to it from the Escrow Account, in accordance with Section 3.4(b), the entirety of the Deposit;

(c) on the Closing Date, Buyer agrees to deposit or pay (or cause to be deposited or paid), in accordance with Section 3.2, the Debt Release Consideration;

(d) on the Closing Date, Buyer agrees to assume the Assumed Obligations;
and

(e) on the date specified in Section 3.3(j), Seller shall be entitled to have disbursed to it from the Purchase Price Escrow Fund, in accordance with Section 3.3(j), the amounts (if any) that become disburseable to Seller pursuant to Section 3.3(j).

Section 3.2. Debt Release Consideration. At Closing, Buyer shall irrevocably deposit (or shall cause to be irrevocably deposited) in trust under one or more escrow or other deposit agreements acceptable to the Parties (the escrow or deposit accounts created pursuant to such escrow or other deposit agreements, the "**Defeasance Accounts**") either (or a combination of) (a) monies in an amount that shall be sufficient, or (b) if permitted under the terms of the relevant Debt Instrument, Permitted Investments, maturing as to principal and interest in such amount and at such times as will insure the availability of monies which (together with other monies, if any, deposited in such Defeasance Accounts) shall be sufficient to pay when due the principal or

redemption price, if applicable, and (without duplication) any applicable Make-Whole Amount and interest due and to become due on each of Seller's outstanding Debt Instruments on or prior to the redemption or prepayment date or maturity thereof, as the case may be (the aggregate amount to be so deposited, or to be paid directly to lenders in accordance with the first proviso of this sentence, the "**Debt Release Consideration**"); provided, however, that in the case of any obligations owing in respect of the Revolving Credit Agreements and the Reimbursement Agreement, Seller shall provide to Buyer customary payoff letters in respect thereof in form and substance reasonably satisfactory to Buyer, and such amounts may be paid directly to lenders of such Debt Instruments at Closing; provided further that the sufficiency of such deposit of monies and/or Permitted Investments (as applicable) in the Defeasance Accounts shall be verified in one or more reports signed at Closing by an independent certified public accountant acceptable to the Parties (such reports, the "**Verification Reports**"), and irrevocable instructions shall be provided under the escrow or other deposit agreements to the escrow agent thereunder to cause the publication and provision of any required redemption, defeasance, or prepayment notice in accordance with the applicable Governing Documents. In addition, there shall be delivered at Closing to the Parties (other than in respect of the Revolving Credit Agreements and Reimbursement Agreement) one or more opinions of counsel to Seller, in a form satisfactory to the Parties, to the effect that (x) the outstanding Debt Instruments are no longer outstanding and have been discharged under the respective Governing Documents, (y) the pledge of the Revenues (as granted in the respective Governing Documents) and all covenants, agreements, and obligations of Seller to the holders of or lenders under, as the case may be, all of such outstanding Debt Instruments of Seller, and all liens, benefits, or security or other Encumbrances under the Governing Documents with respect to Seller's outstanding Debt Instruments, have thereupon ceased, terminated, and become void, discharged, and satisfied, and (z) the transactions contemplated by this Section 3.2 will not adversely affect the exclusion from gross income for federal income tax purposes under Section 103 of the Code of the interest on any of the Debt Instruments the interest of which is intended to be excluded from gross income for federal income tax purposes. For the avoidance of doubt, nothing in this Agreement (including in this Section 3.2 or in Section 3.1(c)) shall obligate Buyer to deposit or pay (or cause to be deposited or paid) any of the Debt Release Consideration or to otherwise proceed with the transactions contemplated by this Section 3.2 (or by this Agreement) if the condition set forth in Section 8.2(m) is not satisfied at Closing (or expressly waived by Buyer in writing). Seller agrees to cooperate reasonably with Buyer in connection with the defeasance of the Debt Instruments as described above, including by executing any escrow or other deposit agreements described above, issuing written directions to the trustee or escrow agent regarding Permitted Investments (if any) to be deposited into the Defeasance Accounts (which instructions are to be consistent with any reasonable requests of Buyer as to the Permitted Investments to be deposited into the Defeasance Accounts), and delivering (or causing to be delivered) the notices, Verification Reports, and opinions of counsel described above, all in accordance with the respective Governing Documents. Promptly upon confirmation from Buyer that (x) either (I) Buyer will not deliver a notification of disagreement pursuant to Section 3.3(c) with respect to any items set forth in the Preliminary Closing Statement delivered by Seller pursuant to Section 3.3(b) (provided that if Buyer fails to deliver any such notification of disagreement within five (5) Business Days after Buyer's receipt of the Preliminary Closing Statement delivered pursuant to Section 3.3(b), then Buyer shall be deemed to have confirmed that it will not deliver such a notification) or (II) all disagreements between the Parties with respect to the Preliminary Closing

Statement have been resolved pursuant to Section 3.3(c) for purposes of determining whether the condition in Section 8.2(m) has been satisfied, and (y) Buyer will not exercise its right to defer the Closing pursuant to Section 4.1 or the Financing Period has expired, Seller shall cause notices of redemption to be sent to holders of series of its Relevant Redeemable Bonds, in each case, in the manner and within such number of days required by the Master Resolution and the applicable Supplemental Resolution relating to each of the respective Relevant Redeemable Bonds, and such notices shall in each such case specify as the date of redemption the later of (A) the earliest possible date on which all outstanding Relevant Redeemable Bonds can be redeemed, or (B) the Closing Date (as determined pursuant to Section 4.1, disregarding clause (a)(ii) thereof).

Section 3.3. Purchase Price Adjustment.

(a) At least thirty days (and no more than forty-five days) prior to the anticipated Closing Date, Seller shall prepare, or cause to be prepared, in good faith and deliver to Buyer a draft of the Preliminary Closing Statement described in Section 3.3(b) (as of the estimated Closing Date), based on Seller's books and records and other information then reasonably available to Seller.

(b) At least five Business Days prior to the anticipated Closing Date, Seller shall prepare, or cause to be prepared, and deliver to Buyer a statement (the "**Preliminary Closing Statement**") setting forth (i) a good-faith estimate of the Net Working Capital as of the Closing Date (the "**Estimated Net Working Capital**"), as well as good faith calculations of the NWC Target Limit and Monthly Average NWC Amount, in each case, based on Seller's books and records and other information available at such time, (ii) a good-faith estimate of the total Decommissioning Funds as of the Closing Date (the "**Estimated Decommissioning Funds**"), based on Seller's books and records and other information available at such time, (iii) a good-faith estimate of the amount spent by Seller on Capital Expenditures after September 30, 2019 and prior to the anticipated Closing Date (the "**Estimated CapEx Spend**"), as well as a good faith calculation of the CapEx Target Limit, in each case, based on Seller's books and records and other information available at such time, (iv) a good faith estimate of the Pre-Closing Accounting Error Amount with respect to all Pre-Closing Accounting Errors (if any) discovered prior to Closing (the "**Estimated Pre-Closing Accounting Error Amount**"), based on information available at such time, (v) the Pre-Closing Debt Face Value, as well as a calculation of the Pre-Closing Debt Increase Amount, in each case, based on Seller's books and records and other information available at such time, and (vi) based on above-referenced amounts in clauses (i) through (v), Seller's calculation of the Estimated Aggregate Adjustment Amount. All Net Working Capital calculations shall be on a basis consistent with the accounting principles, practices, assumptions, conventions and policies used in the preparation of the Balance Sheet modified as set forth on Exhibit L-1 (such principles, practices, assumptions, conventions, and policies, as modified, the "**Applicable Accounting Principles**"). An illustrative example of a calculation of Net Working Capital is set forth as Exhibit L-2 (the "**Sample Statement**"). The Estimated CapEx Spend shall be determined based on the actual amount spent (and estimated in good faith to be actually spent) between September 30, 2019 and the Closing Date on Capital Expenditures determined by reference to, and otherwise in accordance with, the CapEx Tables set forth on Exhibit L-3 and the other applicable terms of this Agreement.

(c) No later than five (5) Business Days after Buyer's receipt of the Preliminary Closing Statement delivered pursuant to Section 3.3(b), Buyer may notify Seller of its good faith disagreement with any items set forth in the Preliminary Closing Statement and Seller's calculation of the Estimated Aggregate Adjustment Amount (which notification shall specify Buyer's alternative Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated Decommissioning Funds, Estimated CapEx Spend, CapEx Target Limit, Estimated Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, and/or Pre-Closing Debt Increase Amount, prepared in a manner consistent with the methodology specified in Section 3.3(b), and Buyer's calculation of the Estimated Aggregate Adjustment Amount), and Seller and Buyer in good faith shall seek to resolve any differences that they may have with respect to any of the items in the Preliminary Closing Statement and the Estimated Aggregate Adjustment Amount calculation for purposes of determining whether the condition in Section 8.2(m) has been satisfied; provided, that until such differences are resolved by written agreement of the Parties or by the procedures described below in this Section 3.3(c), the amount of the Estimated Net Working Capital, the NWC Target Limit, the Monthly Average NWC Amount, the Estimated Decommissioning Funds, the Estimated CapEx Spend, the CapEx Target Limit, the Estimated Pre-Closing Accounting Error Amount, the Estimated Aggregate Adjustment Amount, the Pre-Closing Debt Face Value, and the Pre-Closing Debt Increase Amount so proposed by Buyer shall be used for purposes of determining whether the condition set forth in Section 8.2(m) has been satisfied. If the Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated Decommissioning Funds, Estimated CapEx Spend, CapEx Target Limit, Estimated Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, and Pre-Closing Debt Increase Amount so proposed by Buyer result in a calculation of the Estimated Aggregate Adjustment Amount that causes the condition set forth in Section 8.2(m) not to be satisfied, then either Party may refer the disputed items in the Preliminary Closing Statement to the Independent Accounting Firm for resolution. In the event that any such dispute is so referred to the Independent Accounting Firm, Seller and Buyer shall submit, in writing, to the Independent Accounting Firm, their briefs detailing their views as to the correct nature and amount of each disputed item in the Preliminary Closing Statement, and the Independent Accounting Firm shall make a written determination as to each such disputed item and the amount of the Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated Decommissioning Funds, Estimated CapEx Spend, CapEx Target Limit, Estimated Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, and Pre-Closing Debt Increase Amount (as applicable), and the corresponding calculation of Estimated Aggregate Adjustment Amount to be used for purposes of determining whether the condition set forth in Section 8.2(m) has been satisfied. Buyer and Seller shall use commercially reasonable efforts to cause the Independent Accounting Firm to render a written decision resolving the matters submitted to it within 30 days following the submission thereof. The Independent Accounting Firm shall consider only those items and amounts in Buyer's and Seller's respective calculations of the Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated Decommissioning Funds, Estimated CapEx Spend, CapEx Target Limit, Estimated Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, and Pre-Closing Debt Increase Amount (as applicable) that are identified as being items and amounts to which Buyer and Seller have been unable to agree for purposes of calculating the Estimated Aggregate Adjustment Amount for purposes of determining whether the condition in Section 8.2(m) has been satisfied. The scope of the disputes to be resolved by the Independent

Accounting Firm shall be limited to correcting mathematical errors and, in addition, (i) with respect to the Estimated Net Working Capital, NWC Target Limit, and Monthly Average NWC Amount, determining whether the items and amounts in dispute properly applied the Applicable Accounting Principles and were prepared in a manner consistent with the calculation of the Sample Statement; (ii) with respect to the Estimated Decommissioning Funds, determining whether the amount of the Estimated Decommissioning Funds was prepared in accordance with the definitions of Decommissioning Funds, Internal Decommissioning Fund, and External Decommissioning Fund; (iii) with respect to the Estimated CapEx Spend and CapEx Target Limit, determining whether the items and amounts in dispute were Capital Expenditures as defined in this Agreement; (iv) with respect to the Estimated Pre-Closing Accounting Error Amount, determining the existence of the Pre-Closing Accounting Errors and the amount of the Estimated Pre-Closing Accounting Error Amount in accordance with the respective definitions thereof, as well as to the extent applicable, the proper application of any necessary corrections resulting from such Pre-Closing Accounting Errors to the calculations of Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated Decommissioning Funds, Estimated CapEx Spend, CapEx Target Limit, the Pre-Closing Debt Face Value, and the Pre-Closing Debt Increase Amount; and (v) with respect to the Pre-Closing Debt Face Value and the Pre-Closing Debt Increase Amount, determining whether the amount of the Pre Closing Debt Face Value and the Pre-Closing Debt Increase Amount were prepared in accordance with the respective definitions thereof and the definition of Aggregate Debt Amount; and the Independent Accounting Firm is not to make any other determination, including any determination as to whether the Target Net Working Capital, the Target Decommissioning Funds, the Aggregate Debt Amount, the CapEx Tables, or the definitions of “Net Working Capital”, “Internal Decommissioning Fund”, “External Decommissioning Fund”, “Capital Expenditures”, “Pre-Closing Accounting Errors”, “Pre-Closing Accounting Error Amount”, “Estimated Aggregate Adjustment Amount”, “CapEx Target Limit”, “Monthly Average NWC Amount”, “CapEx Target Limit”, “Pre-Closing Debt Face Value”, or “Pre-Closing Debt Increase Amount” are correct, adequate, or sufficient, nor is the Independent Accounting Firm permitted to modify the Applicable Accounting Principles. In resolving any disputed item, the Independent Accounting Firm may not assign a value to any item greater than the greatest value for such item claimed by either Party or less than the smallest value for such item claimed by either Party. The Independent Accounting Firm’s determination of the Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated Decommissioning Funds, Estimated CapEx Spend, CapEx Target Limit, Estimated Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, and Pre-Closing Debt Increase Amount (as applicable), and Estimated Aggregate Adjustment Amount shall be based solely on written materials submitted by Buyer and Seller (*i.e.*, not on independent review). The determination of the Independent Accounting Firm shall be conclusive and binding upon the parties hereto for purposes of determining whether the condition in Section 8.2(m) has been satisfied, and shall not be subject to appeal or further review for such purpose. Judgment may be entered upon the written determination of the Independent Accounting Firm in accordance with Section 11.12. In acting under this Agreement, the Independent Accounting Firm shall function solely as an expert and not as an arbitrator. The Parties agree that the introduction of different components, judgments, accounting methods, policies, principles, practices, procedures, classifications, or estimation methodologies for the purpose of preparing the Preliminary Closing Statement or determining the Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount,

Estimated CapEx Spend, CapEx Target Limit, and Estimated Aggregate Adjustment Amount, as compared to the components, judgments, accounting methods, policies, principles, practices, procedures, classifications, or estimation methodologies described in the Applicable Accounting Principles or used in preparing the Sample Statement (in the case of Net Working Capital, NWC Target Limit, or Monthly Average NWC Amount) or described in Exhibit L-3 (in the case of the Capital Expenditure amount or CapEx Target Limit determinations) shall not be permitted. For the avoidance of doubt, however, if the Estimated Net Working Capital, NWC Target Limit, Monthly Average NWC Amount, Estimated CapEx Spend, or CapEx Target Limit are not calculated consistent with the definitions herein or if such estimates or the Sample Statement itself are otherwise impacted by a Pre-Closing Accounting Error, the Estimated Aggregate Adjustment Amount (and the components thereof) will take into account any changes thereto (including to the Sample Statement) that are necessary to correct for such Pre-Closing Accounting Errors even if inconsistent with the original calculations or estimates therein. In the event that, based on the calculation of Estimated Aggregate Adjustment Amount, the condition in Section 8.2(m) is determined to have been satisfied, the Parties shall promptly proceed to Closing (subject to the satisfaction or waiver of the conditions set forth in Article VIII, other than the condition set forth in Section 8.2(m)) and Seller shall deliver an updated Preliminary Closing Statement pursuant to Section 3.3(b), taking into account, to the extent applicable, the determinations made by the Independent Accounting Firm, including with respect to the effects of any Pre-Closing Accounting Errors addressed therein.

(d) Within 120 days after the Closing Date, Buyer shall cause to be prepared and delivered to Seller a written statement (the “**Final Closing Statement**”), setting forth (i) a calculation in reasonable detail of the actual Net Working Capital, determined as of the Closing Date (the “**Closing Net Working Capital**”), (ii) the actual Decommissioning Funds as of the Closing Date (the “**Closing Decommissioning Funds**”), (iii) a calculation in reasonable detail of the actual CapEx Shortfall Amount (the “**Actual Closing CapEx Shortfall Amount**”), (iv) a calculation in reasonable detail of the actual Pre-Closing Accounting Error Amount with respect to all Pre-Closing Accounting Errors (if any) discovered prior to submission of the Final Closing Statement (including those discovered prior to Closing) (the “**Actual Pre-Closing Accounting Error Amount**”), and (v) the actual Pre-Closing Debt Increase Amount, together with the Closing Net Working Capital, the Closing Decommissioning Funds, the Actual Closing CapEx Shortfall Amount, and the Actual Pre-Closing Accounting Error Amount, the “**Closing Amounts**”). The Final Closing Statement shall be prepared on a basis consistent with the Applicable Accounting Principles and the Sample Statement. In addition, for the avoidance of doubt, all Closing Amounts included on the Final Closing Statement shall give effect to any adjustments that are necessary to correct any Pre-Closing Accounting Errors.

(e) The Final Closing Statement shall become final and binding on the 30th day following delivery thereof, unless prior to the end of such period, Seller delivers to Buyer written notice of its disagreement (a “**Notice of Disagreement**”) specifying the nature and amount of any dispute as to the Closing Amounts as set forth in the Final Closing Statement. Seller shall be deemed to have agreed with all items and amounts of Closing Amounts not specifically referenced in the Notice of Disagreement, and such items and amounts shall not be subject to review in accordance with Section 3.3(f). Seller’s Notice of Disagreement shall not include disputes regarding any amounts or determinations delivered by the Independent

Accounting Firm pursuant to Section 3.3(c), including with respect to the effects of any Pre-Closing Accounting Errors addressed therein.

(f) During the 30-day period following delivery of a Notice of Disagreement by Seller to Buyer, the parties in good faith shall seek to resolve in writing any differences that they may have with respect to the calculation of the Closing Amounts, as specified therein. Any disputed items resolved in writing between Seller and Buyer within such 30-day period shall be final and binding with respect to such items, and if Seller and Buyer agree in writing on the resolution of each disputed item specified by Seller in the Notice of Disagreement and the amount of the Closing Net Working Capital, Closing Decommissioning Funds, Actual Closing CapEx Shortfall Amount, Actual Pre-Closing Accounting Error Amount, or Pre-Closing Debt Increase Amount (as applicable), the amounts so determined shall be final and binding on the parties for all purposes hereunder. If, pursuant to the preceding two sentences, Seller and Buyer have not resolved all such differences by the end of such 30-day period, then either Party may refer the disputed items in the Preliminary Closing Statement to the Independent Accounting Firm for resolution. In the event that any such dispute is so referred to the Independent Accounting Firm, Seller and Buyer shall submit, in writing, to the Independent Accounting Firm, their briefs detailing their views as to the correct nature and amount of each item remaining in dispute and the amount of the Closing Net Working Capital, Closing Decommissioning Funds, Actual Closing CapEx Shortfall Amount, Actual Pre-Closing Accounting Error Amount, or Pre-Closing Debt Increase Amount (as applicable), and the Independent Accounting Firm shall make a written determination as to each such disputed item and the amount of the Closing Net Working Capital, Closing Decommissioning Funds, Actual Closing CapEx Shortfall Amount, Actual Pre-Closing Accounting Error Amount, or Pre-Closing Debt Increase Amount (as applicable). Buyer and Seller shall use commercially reasonable efforts to cause the Independent Accounting Firm to render a written decision resolving the matters submitted to it within 30 days following the submission thereof. The Independent Accounting Firm shall consider only those items and amounts in Buyer's and Seller's respective calculations of the Closing Net Working Capital, Closing Decommissioning Funds, Actual Closing CapEx Shortfall Amount, Actual Pre-Closing Accounting Error Amount, or Pre-Closing Debt Increase Amount (as applicable) that are identified as being items and amounts to which Buyer and Seller have been unable to agree. The scope of the disputes to be resolved by the Independent Accounting Firm shall be limited to correcting mathematical errors and, in addition, (i) with respect to the Closing Net Working Capital, determining whether the items and amounts in dispute were properly determined in accordance with the Applicable Accounting Principles and the Sample Statement; (ii) with respect to the Closing Decommissioning Funds, determining whether the amount of the Closing Decommissioning Funds was prepared in accordance with the definition thereof and the definitions of Decommissioning Funds, Internal Decommissioning Fund, and External Decommissioning Fund; (iii) with respect to the Actual Closing CapEx Shortfall Amount, determining whether the items and amounts in dispute were Capital Expenditures as defined in this Agreement [or were properly determined in accordance with the CapEx Tables set forth on Exhibit L-3];⁸ (iv) with respect to the Actual Pre-Closing Accounting Error Amount, determining the existence of the Pre-Closing Accounting Errors and the amount of the Actual Pre-Closing

⁸ **NEE Note to Draft:** Inclusion of Exhibit L-3 is subject to Buyer's review and approval of the structure and contents of such Exhibit prior to signing.

Accounting Error Amount in accordance with the respective definitions thereof, as well as, to the extent applicable, the proper application of any necessary corrections resulting from such Pre-Closing Accounting Errors to the calculations of Closing Net Working Capital, Closing Decommissioning Funds, the Actual Closing CapEx Shortfall Amount, and the Pre-Closing Debt Increase Amount; and (v) with respect to the Pre-Closing Debt Increase Amount, whether the amount of the Pre-Closing Debt Increase Amount was prepared in accordance with the definition thereof and with the definitions of Pre-Closing Debt Face Value and Aggregate Debt Amount; and the Independent Accounting Firm is not to make any other determination, including any determination as to whether the Target Net Working Capital, the Target Decommissioning Funds, the CapEx Tables, the Aggregate Debt Amount, the definitions of “Internal Decommissioning Fund”, “External Decommissioning Fund”, “Capital Expenditures”, “Pre-Closing Accounting Errors”, “Pre-Closing Accounting Error Amount”, “Pre-Closing Debt Face Value”, or “Pre-Closing Debt Increase Amount” or any estimates on the Preliminary Closing Statement are correct, adequate, or sufficient, nor is the Independent Accounting Firm permitted to modify the Applicable Accounting Principles. In resolving any disputed item, the Independent Accounting Firm may not assign a value to any item greater than the greatest value for such item claimed by either Party or less than the smallest value for such item claimed by either Party. The Independent Accounting Firm’s determination of the Closing Net Working Capital, Closing Decommissioning Funds, Actual Closing CapEx Shortfall Amount, Actual Pre-Closing Accounting Error Amount, and “Pre-Closing Debt Increase Amount” (as applicable) shall be based solely on written materials submitted by Buyer and Seller (*i.e.*, not on independent review). The determination of the Independent Accounting Firm shall be conclusive and binding upon the parties hereto and shall not be subject to appeal or further review. Judgment may be entered upon the written determination of the Independent Accounting Firm in accordance with Section 11.12. In acting under this Agreement, the Independent Accounting Firm shall function solely as an expert and not as an arbitrator.

(g) The costs of any dispute resolution pursuant to this Section 3.3, including the fees and expenses of the Independent Accounting Firm and of any enforcement of the determination thereof, shall be borne equally by Seller and Buyer. The fees and disbursements of the Representatives of each party incurred in connection with the preparation or review of the Final Closing Statement and preparation or review of any Notice of Disagreement, as applicable, shall be borne by such party.

(h) Each of Buyer and Seller will afford the other Party and its Representatives reasonable access, during normal business hours and upon reasonable prior notice, to the personnel, properties, books and records of the Business and to any other information reasonably requested for purposes of preparing and reviewing the calculations contemplated by this Section 3.3.

(i) For the purposes of this Agreement, the “**Net Adjustment Amount**” means an amount, which may be positive or negative, equal to the sum of (i) the Net Working Capital Surplus Amount; minus (ii) the Net Working Capital Shortfall Amount; plus (iii) the Decommissioning Funds Overage Amount; minus (iv) the Decommissioning Funds Underage Amount; minus (v) the Actual Closing CapEx Shortfall Amount; minus (vi) the Pre-Closing

Accounting Error Adjustment Amount; minus (vii) the Pre-Closing Debt Increase Amount, in each case, as finally determined pursuant to this Section 3.3.

(j) The Purchase Price shall be adjusted, upwards or downwards, as follows:

(i) If the Net Adjustment Amount is positive, then within five Business Days after final determination of the Net Adjustment Amount pursuant to the provisions of this Section 3.3, (A) Buyer shall pay the Net Adjustment Amount to Seller by wire transfer of immediately available funds to such account or accounts as may be designated in writing by Seller at least two Business Days prior to the date such payment is due and (B) Buyer and Seller shall deliver joint written instructions to the Escrow Agent directing the Escrow Agent to disburse the entire Purchase Price Escrow Fund to Seller.

(ii) If the Net Adjustment Amount is negative, Buyer shall be entitled to a payment from the Purchase Price Escrow Fund equal to the lesser of (A) the absolute value of the Net Adjustment Amount, and (B) the entire amount in the Purchase Price Escrow Fund. If Buyer is entitled to a payment from the Purchase Price Escrow Fund pursuant to this Section 3.3(j)(ii), then Buyer and Seller shall, within five Business Days after final determination of the Net Adjustment Amount pursuant to the provisions of this Section 3.3, deliver joint written instructions to the Escrow Agent directing the Escrow Agent to disburse to Buyer the amount specified in the first sentence of this Section 3.3(j)(ii). If the Net Adjustment Amount is negative and the total amount in the Purchase Price Escrow Fund (before giving effect to the disbursement to Buyer described in the immediately preceding sentence) exceeds the absolute value of the Net Adjustment Amount, then Buyer and Seller shall, within five Business Days after final determination of the Net Adjustment Amount pursuant to the provisions of this Section 3.3, deliver joint written instructions to the Escrow Agent directing the Escrow Agent to disburse to Seller the balance of the Purchase Price Escrow Fund after giving effect to the distribution of the Net Adjustment Amount to Buyer pursuant to the immediately preceding sentence.

(iii) The Parties agree that all payments made pursuant to this Section 3.3(j) shall constitute adjustments to the Purchase Price for Tax purposes.

(k) Buyer and Seller agree that, except as otherwise expressly provided in Section 3.3(c), the purpose of preparing the Preliminary Closing Statement and Final Closing Statement and determining the Estimated Net Working Capital, Closing Net Working Capital, Estimated Decommissioning Funds, Closing Decommissioning Funds, Estimated CapEx Spend, Actual Closing CapEx Shortfall Amount, Estimated Pre-Closing Accounting Error Amount, Actual Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, Pre-Closing Debt Increase Amount, and Net Adjustment Amount is to measure changes in the components taken into consideration in determining the Purchase Price. The Parties agree that the introduction of different components, judgments, accounting methods, policies, principles, practices, procedures, classifications or estimation methodologies for the purpose of preparing the Preliminary Closing Statement or Final Closing Statement or determining the Estimated Net Working Capital, Closing Net Working Capital, Estimated CapEx Spend, Actual Closing CapEx Shortfall Amount,

Pre-Closing Debt Face Value, Pre-Closing Debt Increase Amount, and Net Adjustment Amount, as compared to the components, judgments, accounting methods, policies, principles, practices, procedures, classifications, or estimation methodologies described in the Applicable Accounting Principles or used in preparing the Sample Statement (in the case of Net Working Capital) or described in Exhibit L-3 (in the case of the Capital Expenditure amount determinations) shall not be permitted. For the avoidance of doubt, however, if the Estimated Net Working Capital or Estimated CapEx Spend are not calculated consistent with the definitions herein or if such estimates or the Sample Statement itself are otherwise impacted by a Pre-Closing Accounting Error, the Final Closing Statement will take into account any changes thereto (including to the Sample Statement) that are necessary to correct for such Pre-Closing Accounting Errors even if inconsistent with the original calculations or estimates therein.

Section 3.4. Deposit.

(a) Buyer, the Department of Administration, and the Escrow Agent have entered into the Escrow Agreement, and Buyer has deposited an amount equal to \$25,000,000 (together with any and all interest accrued thereon, the “**Deposit**”) to be held in accordance with the terms hereof and the Escrow Agreement (and, prior to the Execution Date, the Agreement to Transact). From and after the Execution Date, in the event of any inconsistency between the terms of this Agreement and those of the Escrow Agreement or the Agreement to Transact, with respect to any inconsistency as between Buyer and Seller (or the Department of Administration), the statements in this Agreement shall control.

(b) If Closing occurs, the entirety of the Deposit shall be disbursed to Seller from the Escrow Account.

(c) If for any reason this Agreement is terminated in accordance with Section 10.1, then the Deposit shall be retained or disbursed as provided in Section 10.2.

Section 3.5. Purchase Price Escrow Fund. On the Closing Date, Buyer shall deposit (or cause to be deposited) the Purchase Price Escrow Amount with the Escrow Agent pursuant to the Purchase Price Escrow Agreement, such deposit (together with interest and other income thereon) to constitute an escrow fund (the “**Purchase Price Escrow Fund**”) and to be governed by the terms set forth herein and in the Purchase Price Escrow Agreement. The Purchase Price Escrow Fund shall (i) be available for the purposes described in Section 3.3(j), (ii) be reduced in accordance with Section 3.3(j), and (iii) be increased from time to time by the amount of any interest, dividends, earnings, and other income received in respect of the amounts therein in accordance with the Purchase Price Escrow Agreement.

ARTICLE IV

THE CLOSING

Section 4.1. Time and Place of Closing. Upon the terms and subject to the satisfaction of the conditions contained in Article VIII of this Agreement, the closing of the purchase and sale of the Purchased Assets and assumption of the Assumed Obligations (the “**Closing**”) shall

take place at the offices of Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166, at 10:00 a.m., Eastern time, (a) on the later to occur of (i) third Business Day following the date on which the conditions set forth in Article VIII (other than the conditions to be satisfied by deliveries at the Closing and any other conditions that by their nature are to be satisfied on the Closing Date, but subject to the satisfaction or waiver of all such conditions) have been satisfied or waived, and (ii) the redemption date specified in each duly delivered notice of redemption (which redemption date shall be the same for all Relevant Redeemable Bonds) which the Seller is required to give in respect of the respective Relevant Redeemable Bonds pursuant to Section 3.2 hereof, or (b) at such other place, time, or date as the Parties may agree; provided that (x) notwithstanding the satisfaction or waiver of the closing conditions described in Article VIII, Buyer shall be permitted to defer the Closing Date for up to 30 days (the “**Financing Period**”) in order to finalize arrangements related to the Securitization, and Buyer shall not be required to effect the Closing until the earlier of (i) a date during the Financing Period specified by Buyer on at least three Business Days’ notice to Seller or (ii) the first Business Day after the last day of the Financing Period; and (y) if the Closing Date would otherwise fall within the last 14 calendar days of any financial quarter of Buyer (including after giving effect to the Financing Period), the Closing shall at Buyer’s written election occur on the first Business Day of the next succeeding financial quarter of Buyer. The date on which the Closing occurs is referred to herein as the “**Closing Date**”. The purchase and sale of the Purchased Assets and assumption of the Assumed Obligations will be effective as of 12:01 a.m. Eastern time on the Closing Date (the “**Effective Time**”).

Section 4.2. Closing Payments. At the Closing, Buyer will (a) pay or cause to be paid to Seller the Closing Date Payment by wire transfer of immediately available funds to one or more accounts provided to Buyer by Seller in writing (in a form reasonably acceptable to Buyer signed by a duly authorized representative of Seller) at least three Business Days prior to the Closing Date, and (b) deposit or cause to be deposited the Purchase Price Escrow Amount with the Escrow Agent in accordance with Section 3.5.

Section 4.3. Seller’s Closing Deliveries. Subject to Section 7.4, at or prior to the Closing, Seller will deliver the following to Buyer:

- (a) a counterpart of joint written release instructions to the Escrow Agent, duly executed by a director or officer of the Department of Administration authorized to deliver such instructions under the Escrow Agreement, instructing the Escrow Agent to disburse the Deposit from the Escrow Account to Seller;
- (b) the Bill of Sale, duly executed by Seller;
- (c) a counterpart of the Assumption Agreement, duly executed by Seller;
- (d) an instrument of assignment of the Purchased Contracts, substantially in the form attached hereto as Exhibit C (the “**Assignment of Contracts**”), duly executed by Seller;
- (e) one or more deeds (including the affidavits attached thereto) in recordable form to convey to Buyer each parcel of Owned Real Property other than the Legacy Leased

Property (unless acquired by Seller prior to the Effective Time), substantially in the form attached hereto as Exhibit D (each, a “**Deed**”), duly executed by Seller;

(f) one or more instruments of assignment of Leases relating to the Leased Real Property (including all agreements related to the Legacy Leased Properties, to the extent not acquired by Seller prior to the Effective Time), substantially in the form attached hereto as Exhibit E (each, an “**Assignment of Leases**”), duly executed by Seller;

(g) one or more instruments of assignment in recordable form to convey to Buyer the Easements, substantially in the form attached hereto as Exhibit F (each, an “**Assignment of Easements**”), duly executed by Seller;

(h) an omnibus assignment of easements, substantially in the form attached hereto as Exhibit H (the “**Omnibus Assignment of Easements**”), duly executed by Seller;

(i) an assignment of the Assigned IP, in form and substance reasonably acceptable to Buyer, duly executed by Seller;

(j) the duly executed certificate of an officer of Seller contemplated by Section 8.2(c);

(k) a certificate executed by Seller setting forth that Seller is neither a foreign person nor an entity disregarded as separate from a foreign person within the meaning of Treasury Regulations Section 1.1445-2(b)(2);

(l) evidence reasonably satisfactory to Buyer that Seller has terminated each of the Revolving Loans, each of the Revolving Credit Agreements, each of the Dealer Agreements, the Reimbursement Agreement, and each letter of credit which has been issued to secure or enhance any Debt Instrument;

(m) (i) the escrow and other deposit agreements related to the Defeasance Accounts, (ii) the Verification Reports, and (iii) the opinions of counsel to Seller, in each case that are described in Section 3.2;

(n) to the extent required pursuant to Section 3.2, the payoff letters described in Section 3.2;

(o) notices to tenants under the Leases where Seller is the landlord, sublandlord, or licensor, advising them of the sale of the Real Property to Buyer and directing all future notices and rental payments to Buyer, in form and substance reasonably acceptable to Buyer and Seller (the “**Tenant Notices**”);

(p) notices to the vendors under the Purchased Contracts, advising them of the sale of the Real Property to Buyer and directing all future notices and invoice payments to Buyer, in form and substance reasonably acceptable to Buyer and Seller (the “**Vendor Notices**”);

(q) notices to the holders of each of the Easements (when required by the terms of such Easements) advising them of the sale of the Real Property to Buyer and directing all future notices to Buyer, in form and substance reasonably acceptable to Buyer and Seller (the “**Easement Notices**”);

(r) one or more owner’s affidavits in the form required by the Buyer’s Title Insurance Company and such authority and other customary documents that may be required by Buyer’s Title Insurance Company;

(s) a counterpart of the Purchase Price Escrow Agreement, duly executed by Seller;

(t) an update to Schedule 5.12, setting forth (i) a current list of all insurance policies maintained by or on behalf of Seller relating to the Business, the Purchased Assets, or the Assumed Obligations as of the Closing Date, and (ii) a current list of all claims for Assumed Obligations that are open or pending as of the Closing Date under any policy listed on Schedule 5.12 (or in the update to Schedule 5.12 delivered pursuant to this Section 4.3(t)); and

(u) the bank account information for all Acquired Accounts (including any bank accounts designated by Buyer as Acquired Accounts pursuant to clause (b) of the definition of Acquired Accounts), as of the date that is at least ten (10) Business Days prior to the Closing Date, as required to be listed on Schedule 5.22(d), including the names and locations of the banks or other financial institutions at which such Acquired Accounts are maintained and the names of all Persons authorized to draw thereon, make withdrawals therefrom, or have access thereto (it being understood that the information required by this clause (v) shall be provided to Buyer at least ten (10) Business Days prior to the Closing Date);

(v) such other bills of sale, assignments, and other instruments of assignment, transfer, or conveyance, and such other documents and instruments, as Buyer may reasonably request or as may be otherwise necessary or desirable to evidence and effect the sale, assignment, transfer, conveyance and delivery of the Purchased Assets to Buyer, duly executed by Seller.

Section 4.4. Buyer’s Closing Deliveries. Subject to Section 7.4, at or prior to the Closing, Buyer will deliver the following to Seller:

(a) a counterpart of joint written release instructions to the Escrow Agent duly executed by an officer of Buyer authorized to deliver such instructions under the Escrow Agreement, instructing the Escrow Agent to disburse the Deposit from the Escrow Account to Seller;

(b) a counterpart of the Assumption Agreement, duly executed by Buyer;

(c) a counterpart of each Assignment of Contracts, duly executed by Buyer;

(d) a counterpart of each Assignment of Leases, duly executed by Buyer;

- Buyer;
- (e) a counterpart of each Assignment of Easements, duly executed by Buyer;
 - (f) a counterpart of the Omnibus Assignment of Easements, duly executed by Buyer;
 - (g) a duly executed certificate of an officer of Buyer contemplated by Section 8.3(c);
 - (h) counterparts of the Tenant Notices duly executed by Buyer;
 - (i) counterparts of the Vendor Notices duly executed by Buyer;
 - (j) counterparts of the Easement Notices duly executed by Buyer;
 - (k) a counterpart of the Purchase Price Escrow Agreement, duly executed by Buyer and the Escrow Agent; and
 - (l) such other documents and instruments as Seller may reasonably request or as may be otherwise necessary or desirable to evidence and effect the assumption by Buyer of the Assumed Obligations, duly executed by Buyer.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

Section 5.1. Organization and Good Standing. Seller is a body corporate and politic of the State of South Carolina and has all requisite corporate power and authority to own, lease, and operate the Purchased Assets and to carry on the Business as presently conducted.

Section 5.2. Authority and Enforceability. Seller has all power and authority necessary, and has taken all action required on its part, to execute and deliver, and to perform its obligations under, and, subject to the satisfaction (or waiver) of the conditions to Closing set forth in Section 8.1 and Section 8.3, to consummate the transactions contemplated by, this Agreement and the Ancillary Agreements to which Seller is (or is contemplated to be) a party. No other proceedings on the part of Seller are, or will be as of immediately preceding the Closing, necessary to authorize the execution and delivery by Seller of this Agreement and the Ancillary Agreements to which Seller is (or is contemplated to be) a party, the performance by Seller of its obligations hereunder and thereunder, and the consummation of the transactions contemplated hereby and thereby. This Agreement and the Executed Ancillary Agreements to which Seller is a party have each been duly and validly executed and delivered by Seller, and (assuming the due execution and delivery by each other party thereto) each constitutes a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity. At the Closing, each of the Ancillary Agreements (other than any Executed

Ancillary Agreements) to which Seller is contemplated to be a party will be duly and validly executed and delivered by Seller and will (assuming the due execution and delivery by each other party thereto) constitute a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

Section 5.3. No Conflicts. Except as set forth on Schedule 5.3, neither the execution, delivery, and performance by Seller of this Agreement or any Ancillary Agreement to which Seller is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereby or thereby, will:

(a) conflict with, or result in any breach or violation of, Seller's Charter or any of Seller's other Organizational Documents;

(b) assuming all of the Required Regulatory Approvals have been obtained, violate any Law or Order applicable to Seller, the Business, or any of the Purchased Assets;

(c) assuming receipt of the Seller Consents and the Required Regulatory Approvals, result in a breach or violation of, constitute (with or without due notice or lapse of time or both) a default under, or give to others any right of termination, amendment, modification, acceleration, or cancellation of any Material Contract (including any Franchise), Easement, or Lease; or

(d) result in the creation of any Encumbrance, other than a Permitted Encumbrance, on any of the Purchased Assets;

except, in the case of clauses (b) and (c), for any such violations, breaches, defaults, terminations, amendments, modifications, accelerations, or cancellations that (i) would not reasonably be expected, individually or in the aggregate, to (A) materially and adversely affect Buyer's operation of the Business or use of the Purchased Assets in the manner currently operated or used by Seller or (B) prevent or materially impair or delay Seller's ability to consummate the transactions contemplated hereby, or (ii) arise as a result of the specific legal, regulatory, or financial status of Buyer, or as a result of facts or circumstances that specifically relate to the business or activities in which Buyer or its Affiliates are (or are proposed to be) engaged, other than the Business.

Section 5.4. No Consents. Except as set forth on Schedule 5.4(a) (the "**Seller Consents**"),⁹ and except for consents, approvals, and notices under Section 5.5, neither the execution, delivery, and performance by Seller of this Agreement or any Ancillary Agreement to which Seller is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereby or thereby, will require any consent or approval of or notice to any Person pursuant to any Material Contract. Except as set forth on Schedule 5.4(b), neither the execution,

⁹ **NEE Note to Draft:** The Design and Construction Agreement was included on Schedule 5.4(a). Buyer will require consents under the Design and Construction Agreement to be resolved to Buyer's satisfaction.

delivery, and performance by Seller of this Agreement or any Ancillary Agreement to which Seller is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereby or thereby, will require any notice to or approval or consent of, or satisfaction of any other condition imposed by, an entity with a federal charter.

Section 5.5. Regulatory Matters. Neither the execution, delivery, and performance by Seller of this Agreement or any Ancillary Agreement to which Seller is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereby or thereby, will require with respect to Seller any consent or approval of, or declaration, filing, or notice with or to, or satisfaction of any other condition imposed by, any Governmental Authority, other than (a) the Required Regulatory Approvals (and required filings with respect thereto), (b) routine governmental notices and filings that are ministerial in nature that are customarily made after the consummation of transactions (without penalty) of the nature contemplated by this Agreement and the Ancillary Agreements to which Seller is (or is contemplated to be) a party, (c) consents and approvals that, if not obtained, and declarations, filings, and notices that, if not made, would not reasonably be expected, individually or in the aggregate, to (i) materially and adversely affect Buyer's operation of the Business or use of the Purchased Assets in the manner currently operated or used by Seller, or (ii) prevent or materially impair or delay Seller's ability to consummate the transactions contemplated hereby, (d) consents and approvals that have already been obtained and declarations, filings, and notices that have already been made, or (e) consents, approvals, declarations, filings, and notices that arise as a result of the specific legal, regulatory, or financial status of Buyer, or as a result of facts or circumstances that specifically relate to the business or activities in which Buyer or its Affiliates are (or are proposed to be) engaged, other than the Business.

Section 5.6. Financial Statements.

(a) Schedule 5.6(a) sets forth the following financial statements (the "**Financial Statements**") relating to the Business: (i) (A) audited statements of net position – business-type activities of Seller as at December 31, 2017, December 31, 2018, and December 31, 2019 (the statement dated December 31, 2019, the "**Balance Sheet**"), (B) audited statements of revenues, expenses and changes in net position – business-type activities of Seller for the fiscal years ended December 31, 2017, December 31, 2018, and December 31, 2019 (the statement for the fiscal year ended December 31, 2019, the "**2019 Income Statement**"), and (C) audited statements of cash flows – business-type activities of Seller for the fiscal years ended December 31, 2017, December 31, 2018, and December 31, 2019 (the statement for the fiscal year ended December 31, 2019, together with the Balance Sheet and the 2019 Income Statement, the "**2019 Financial Statements**"), and (ii) (A) an unaudited statement of net position – business-type activities of Seller as at [●], 2020, (B) an unaudited statement of revenues, expenses and changes in net position – business-type activities of Seller for the [●]-month period ended [●], 2020, and (C) an unaudited statement of cash flows – business-type activities of Seller for the [●]-month period ended [●], 2020¹⁰. Each of the Financial Statements has been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto and subject, in the case of the unaudited financial

¹⁰ Dept. Note to Draft: To be the last quarter ended at least 45 days prior to signing.

statements described in clause (ii) of the foregoing sentence, to the absence of notes and to normal and recurring year-end adjustments, the effect of which will not be material), and presents fairly, in all material respects, the financial condition and results of operations of Seller as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein.

(b) The Financial Statements have been prepared based on the books of account and financial records of Seller. The books of account and financial records of Seller pertaining to the Business are true and correct in all material respects, represent bona fide transactions, and have been prepared and are maintained in all material respects in accordance with GAAP and sound accounting practice.

(c) Seller maintains a system of internal controls over financial reporting designed to provide reasonable assurance (i) regarding the reliability of the Seller's financial reporting and the preparation of financial statements for external purposes in conformity with GAAP, (ii) that receipts and expenditures of the Business are being made only in accordance with the authorization of Seller's management and directors, and (iii) regarding prevention or timely detection of the unauthorized acquisition, use, or disposition of assets of the Business that could have a material effect on financial statements of Seller. Seller has disclosed to the Seller's external auditors any fraud, whether or not material, that involves management or other employees who have a significant role in the Seller's internal control over financial reporting.

Section 5.7. Absence of Certain Changes.

(a) Except as set forth on Schedule 5.7(a), from the date of the Balance Sheet to the Execution Date, (i) the Business has been operated, in all material respects, in the ordinary course of business consistent with past practice and (ii) Seller has not taken any action that, if taken after the Execution Date without Buyer's consent, would constitute a breach of any of clause (a), (b), (c), (d)(ii), (f), (i), (j), (k), (l), (n), (o), (s), (t), (u), (w), (x), (y), or (z) of Section 7.1.

(b) Since the date of the Balance Sheet, there has not been any event, change, occurrence, or development that, individually or in the aggregate, constitutes or would reasonably be expected to constitute a Material Adverse Effect.

Section 5.8. Material Contracts.

(a) Schedule 5.8(a) sets forth a true and complete list of all of the following contracts to which Seller is a party or by which Seller or any of its assets (including any Purchased Assets) may be bound as of the Execution Date (all contracts described in this Section 5.8(a) being "**Material Contracts**", regardless of whether listed on Schedule 5.8(a)):

(i) each agreement that involves consideration or payments in excess of \$1,000,000 and that, in each case, cannot be terminated by Seller upon 90 days' or less notice without payment of a material amount, other than contracts addressed by Section 5.8(a)(ii) through Section 5.8(a)(xxvii);

(ii) all agreements that require (A) Seller to purchase or sell a stated portion of the requirements or outputs of the Business or that contain “take or pay” provisions and (B) consideration or payments in excess of \$500,000 in any one year or \$1,000,000 in the aggregate for each individual agreement;

(iii) all agreements for the purchase, exchange, or sale of electricity, energy, capacity, or other energy-related products or ancillary services;

(iv) all agreements associated with the Water Business or otherwise providing for the wholesale purchase, sale, exchange, or supply of, or the transportation of, water;

(v) all agreements for the purchase, exchange, sale, transportation, or storage of natural gas, fuel oil, diesel, coal, or any other fuel or commodity (including agreements involving nuclear fuel and its component fuel processes);

(vi) all agreements for the transmission of electricity;

(vii) all agreements for the interconnection of electric generation facilities to transmission or distribution facilities (except for residential solar facilities);

(viii) all agreements pertaining to compliance with NRC requirements as to the ownership, operation, or Decommissioning of VCSNS 1 or the VCSNS 1 site (including the VCSNS 1 Real Property);

(ix) all broker, distributor, dealer, manufacturer’s representative, franchise, agency, sales promotion, market research, marketing consulting, and advertising agreements that individually provide for annual compensation by Seller in an amount in excess of \$1,000,000 and that cannot be terminated by Seller upon 90 days’ or less notice without payment of a material amount;

(x) all agreements that limit or purport to limit the ability of Seller to compete in any line of business or with any Person or in any geographic area or during any period of time;

(xi) all joint venture, joint ownership, co-ownership, partnership, or similar agreements;

(xii) all agreements for the sale of any of the Purchased Assets or for the grant to any Person of any option, right of first refusal, or preferential or similar right to purchase or otherwise acquire an interest in any of the Purchased Assets, other than agreements entered into in the ordinary course of business consistent with past practice relating to assets with a book value of less than \$1,000,000 in the aggregate;

(xiii) each material Franchise;

(xiv) all agreements between Seller and one or more (A) Business Employees or (B) independent non-Affiliate third party consultants or contractors that individually involve expenditures in excess of \$1,000,000 in the aggregate and that, in each case, cannot be terminated by Seller upon 90 days' or fewer notice without payment of a material penalty or other amount;

(xv) all Easements;

(xvi) the Legacy Lease Agreements;

(xvii) all Leases, except for such Leases that do not individually involve expenditures in excess of \$1,000,000 in the aggregate;

(xviii) each construction contract, equipment purchase contract, operations and maintenance agreement, management services agreement, administrative services contract, or technical or contractual service agreement (including any such contract pertaining to the ownership, operation, or Decommissioning of VCSNS 1 (including any ISFSI at VCSNS1 or on the VCSNS 1 Real Property)), which has required or will require expenditures in excess of \$1,000,000 in the aggregate;

(xix) the Standard Contract and the Standard Contract Settlement Agreement;

(xx) each future, swap, collar, put, call, floor, cap, option, or other agreement that is intended to benefit from or reduce or eliminate the risk of fluctuations in interest rates, the price of commodities or securities, or currency exchange rates and requires payments in excess of \$1,000,000 in the aggregate;

(xxi) all agreements under which Seller has created, incurred, assumed, or guaranteed, or is otherwise liable for, any outstanding Indebtedness, or under which a security interest has been imposed on any of the Purchased Assets;

(xxii) other than agreements addressed by Section 5.8(a)(ii) through Section 5.8(a)(v) and Section 5.8(a)(xviii), each agreement relating to the purchase, exchange, or sale of goods or services and requiring payments in excess of \$1,000,000 in the aggregate;

(xxiii) each collective bargaining agreement or other agreement with any labor organization, union, or other employee-representative organization;

(xxiv) agreements providing for any guaranty or surety or the principal purpose of which is indemnification (excluding, for the avoidance of doubt, indemnification provisions under any other Material Contract);

(xxv) all agreements providing for the extension of credit by Seller;

(xxvi) each grant agreement or other similar agreement governing, or otherwise providing for, monetary or other grants by Seller to any other Person (including any economic development grants, any grants from the South Carolina Power Team Site Readiness Fund, and any grants from the Santee Cooper Direct Economic Development Investment Fund), other than any such agreement under which all commitments or obligations of Seller with respect to such grants have been satisfied in full or expired; and

(xxvii) each agreement requiring the delivery or maintenance of any guarantee or other form of credit support to secure performance or payment by Seller thereunder (or under any other Purchased Contract).

(b) Each Material Contract is in full force and effect and constitutes the legal, valid, binding, and enforceable obligation of Seller and, to Seller's Knowledge, the counterparties thereto, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

(c) Except as set forth on Schedule 5.8(c), neither Seller nor, to Seller's Knowledge, any of the other parties thereto is in material breach, violation, or default, and no event or circumstance has occurred which with notice or lapse of time or both would constitute any such material breach, violation, or default by Seller or by any other parties thereto, or permit termination, modification, or acceleration by such other parties or, to Seller's Knowledge, by Seller, under any Material Contract. Except as set forth on Schedule 5.8(c), Seller has not received any written claim of any material breach, violation, or default under any Material Contract, nor has Seller received any written notice from any other party to any Material Contract that such other party intends to terminate, modify, or accelerate (or fail to renew at the end of its term) any such Material Contract.

(d) Seller has made available to Buyer true and complete copies of all Material Contracts, including any amendments thereto.

Section 5.9. Legal Proceedings. Except (a) as set forth on Schedule 5.9(a) and (b) for any pending or threatened Actions for civil monetary damages at law commenced by Persons other than Governmental Authorities that would not reasonably be expected to result in a Loss in respect of the Business or the Purchased Assets of more than \$10,000,000 in the aggregate, there are no Actions pending or, to Seller's Knowledge, threatened that relate to or affect the Business or the Purchased Assets or Seller's ownership or operation thereof, including pertaining to condemnation or eminent domain. There are no Actions pending or, to Seller's Knowledge, threatened, that would reasonably be expected to result in the issuance of an Order restraining, enjoining, or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement or any Transfer Instruments. Other than the Joint Resolution, none of Seller, the Business, or any of the Purchased Assets is subject to any Order that, individually or in the aggregate, (i) materially restricts the operation of the Business or the operation or use of the Purchased Assets or (ii) affects, or would reasonably be expected to affect, the Business or the Purchased Assets materially and adversely. As of the Execution Date, all material Orders applicable to the Business or the Purchased Assets (or that otherwise give rise

to Assumed Obligations) are set forth on Schedule 5.9(b). No representation or warranty is made under this Section 5.9 with respect to environmental matters or employment matters, which are covered by Section 5.14 and Section 5.17, respectively.

Section 5.10. Compliance with Law; Orders. Except as set forth on Schedule 5.10, Seller is, and since January 1, 2015 has been, in compliance in all material respects with all Laws applicable to the Purchased Assets (including all Laws applicable to the ownership, operation, maintenance, or use thereof) or the Business (including all Laws applicable to the ownership, conduct, or operation thereof). Since January 1, 2015, Seller has not received any written notice, Order, complaint, or other communication from any Governmental Authority or any other Person that Seller is not or has not been in compliance in all material respects with any such Laws with respect to the Business or the Purchased Assets. No representation or warranty is made under this Section 5.10 with respect to environmental matters, Taxes, or ERISA, which are covered by Section 5.14, Section 5.15, and Section 5.16, respectively.

Section 5.11. Permits. Schedule 5.11(a) sets forth a true and complete list of all Material Permits. Except as set forth on Schedule 5.11(b), all Material Permits constitute Transferable Permits. Each Material Permit is valid and in full force and effect, and Seller is, and since January 1, 2015 has been, in compliance in all material respects with all of its obligations with respect thereto. Since January 1, 2015, Seller has not received any written notice, Order, complaint, inquiry, transmittal, or other communication from any Governmental Authority or any other Person that Seller is not or has not been in compliance in all material respects with any Material Permits. Seller has not received written notice of, nor to Seller's Knowledge is there threatened, any suspension, cancellation, modification, revocation or nonrenewal of any Material Permit. No representation or warranty is made under this Section 5.11 with respect to environmental matters, Taxes, or ERISA, which are covered by Section 5.14, Section 5.15, and Section 5.16, respectively.

Section 5.12. Insurance. Schedule 5.12 sets forth a true and complete list of (a) all insurance policies maintained by or on behalf of Seller relating to the Business, the Purchased Assets, or the Assumed Obligations as of the Execution Date (excluding owner's policies of title insurance), and (b) all third-party nuclear liability insurance policies and on-site nuclear property damage insurance policies, and all other insurance policies relating to VCSNS 1 or VCSNS 2 and 3, under which Seller is an additional insured. All such policies are in full force and effect (except as replaced after the Execution Date without violating Section 7.1), and no application therefor included a material misstatement or omission. All premiums with respect thereto (and with respect to any policy obtained after the Execution Date in replacement therefor) have been paid to the extent due. Except as set forth on Schedule 5.12, Seller has not received written notice of, nor to Seller's Knowledge is there threatened, any cancellation, termination, reduction of coverage, or material premium increases with respect to any such policy (or any policy obtained after the Execution Date in replacement therefor). Except as set forth on Schedule 5.12, as of the Execution Date, Seller has not made any claim that is currently open or pending under any such policy. The insurance maintained by Seller is adequate to comply with the Material Contracts.

Section 5.13. Real Property.

(a) Except as otherwise provided on Schedule 5.13(a)-1, to Seller's Knowledge, Seller has on the Execution Date (and immediately prior to the Effective Time will have), marketable and indefeasible fee simple title to the Owned Real Property and all improvements thereon free and clear of all Encumbrances except Permitted Encumbrances and except as would not, individually or in the aggregate, reasonably be expected to materially and adversely affect Buyer's ownership and use of such Owned Real Property or such improvements thereon in connection with the operation of the Business in the manner currently operated by Seller or use of the Purchased Assets in the manner currently used by Seller. Except for the Residential Leases or as otherwise provided on Schedule 5.13(a)-2, none of the Owned Real Property is leased or licensed for use by a third party.

(b) To Seller's Knowledge, Seller has on the Execution Date (and immediately prior to the Effective Time will have) good and valid leasehold interests or other granted property rights, as the case may be, in the Leased Real Property and all improvements thereon (to the extent leased by Seller) free and clear of all Encumbrances except Permitted Encumbrances and except as would not, individually or in the aggregate, reasonably be expected to materially and adversely affect Buyer's use of such Leased Real Property or such improvements thereon in connection with the operation of the Business in the manner currently operated by Seller or use of the Purchased Assets in the manner currently used by Seller. Each of the Leases is in full force and effect, and constitutes the legal, valid, binding, and enforceable obligation of Seller and, to Seller's Knowledge, the counterparties thereto, and (i) Seller is not in material default (and has not taken or failed to take any action which with notice, the passage of time, or both, would constitute a material default) under the terms of any such Lease, and Seller has not received written notice of material default under any such Lease which has not been cured within the applicable grace periods and (ii) no other party thereto is in material default under any such lease. Seller has not subleased or otherwise granted to any Person rights to use, enjoy, or occupy any portion of the Leased Real Property, which would, individually or in the aggregate, reasonably be expected to materially and adversely affect Buyer's use of such Leased Real Property or the improvements thereon in connection with the operation of the Business in the manner currently operated by Seller or use of the Purchased Assets in the manner currently used by Seller.

(c) Except as set forth on Schedule 5.13(c), to Seller's Knowledge, on the Execution Date, Seller is (and immediately prior to the Effective Time, Seller will be) the owner of the Easements except for such Easements, the existence or absence of which would not individually or in the aggregate reasonably be expected to materially and adversely affect Buyer's operation of the Business in the manner currently operated by Seller or use of the Purchased Assets in the manner currently used by Seller. To Seller's Knowledge, each Easement is assignable in accordance with its terms, and Seller has the right to assign each Easement.

(d) There are no unrecorded outstanding options, rights of first offer, or rights of first refusal to purchase the Owned Real Property or any portion thereof or interest therein.

(e) Seller has not received written notice of any pending condemnation, eminent domain or similar proceeding affecting a material portion of the Real Property, and Seller has not received any written notice that any such proceeding is contemplated.

(f) Except as otherwise provided on Schedule 5.13(f), Seller has not received any written notice of existing, pending, or threatened zoning, building code, or other moratorium proceedings, or similar matters which would adversely affect the ability of Buyer to operate the Business as currently operated by Seller.

(g) Except as set forth on Schedule 5.13(g), the Seller has not received any written notice of any existing or threatened material special tax or special assessment to be levied against any portion of the Business, and no such special tax or assessment currently exists or, to Seller's Knowledge, has been threatened.

(h) Pursuant to each Legacy Lease Agreement or the Central Coordination Agreement, Seller has the right to acquire the underlying property from Central or its assignee. Schedule 5.13(h) sets forth the current status of each acquisition.

(i) Except as set forth on Schedule 5.13(i), the Real Property constitutes all of the material real property interests necessary for the operation and maintenance of the Business in accordance with applicable Law and Prudent Utility Practices.

(j) Schedule 5.13(j) contains a list of each existing (i) title policy, (ii) title commitment, and (iii) survey ((i), (ii), and (iii), collectively, the "***Title Documents***"), in each case in the possession or control of Seller with respect to the Owned Real Property, Leased Real Property, or Easements included in the Purchased Assets. A true and correct copy of each Title Document and the documents referenced therein has been provided to Buyer.

Section 5.14. Environmental Matters. Schedule 5.14-1 sets forth a true and complete list of all Material Environmental Permits. Except as set forth on Schedule 5.14-2:

(a) All Material Environmental Permits have been obtained and are in full force and effect;

(b) The Purchased Assets, the Business, and Seller (with respect to the Purchased Assets and Business) (i) are, and since January 1, 2015 have been, in material compliance with Environmental Laws, and (ii) have no material liability under Environmental Laws or with respect to Hazardous Materials;

(c) Seller is not currently a party to any consent decree or Order with any Governmental Authority or any other Person arising from an alleged material violation of Environmental Laws relating to the Business or the Purchased Assets;

(d) Since January 1, 2015, Seller has not received any written notice from a third party alleging a material violation of Environmental Laws or any material liabilities (including any investigatory, remedial, or corrective obligations) arising under Environmental Laws or with respect to Hazardous Materials, that has not been fully and finally resolved, in each

case, relating to the Business or the Purchased Assets, and, to Seller's Knowledge, no such notice is threatened;

(e) There has been no Release in, on, or beneath any of the Real Property or any other real property currently or formerly owned, operated, or leased by Seller (with respect to the Business) that would reasonably be expected to form the basis of a material Environmental Claim or result in material liabilities;

(f) Seller has not received written notice that it has been identified by the United States Environmental Protection Agency or applicable state agency as a potentially responsible party under CERCLA or state analog, except to the extent such identification would not reasonably be expected to result in material liability, and, to Seller's Knowledge, no such notice is threatened;

(g) Except as would not reasonably be expected to result in material liability, Seller has not arranged, by contract, agreement, or otherwise, for the generation, transportation, disposal, or treatment of Hazardous Materials (i) at any site at which a federal, state, or local agency or other third party has conducted or has ordered that Seller conduct a remedial investigation, removal, or other response action pursuant to any Environmental Law or (ii) in a manner that would reasonably be expected to result in an Environmental Claim;

(h) There are no Environmental Claims pending or, to Seller's Knowledge, threatened against Seller that relate to the Purchased Assets or the Business that would reasonably be expected to result in a material liability; and

(i) Seller has made available to Buyer copies of all environmental assessments, reports, audits, and other documents in its possession or under its control that relate to Seller's compliance with Environmental Laws (with respect to the Business) or the environmental condition of any real property that Seller currently or formerly has owned, operated, or leased (with respect to the Business).

Notwithstanding anything else contained herein, except for Section 5.4, Section 5.6, Section 5.7, Section 5.8, Section 5.12, and Section 5.13, the representations and warranties contained in this Section 5.14 are the only representations and warranties being made with respect to compliance with or liability under Environmental Laws, Environmental Permits, Hazardous Materials, or with respect to Environmental Claims or any environmental, health, or safety matter related to the Business, the Purchased Assets, or Seller's ownership or operation thereof.

Section 5.15. Taxes. Except as set forth on Schedule 5.15:

(a) All income Tax Returns and all other material Tax Returns required to be filed by Seller with respect to the Business or the Purchased Assets have been filed in a timely manner. Each such Tax Return is correct and complete in all material respects. All Taxes shown as due and payable on such Tax Returns and all other material Taxes have been paid in full. With respect to the Business or the Purchased Assets, Schedule 5.15(a) sets forth a true and complete list of all Tax Returns (including applicable form and jurisdiction) required to be filed

(i) in the past three (3) Tax years, (ii) after the Closing Date for any Tax period ending on or before the Closing Date, and (iii) for any Straddle Tax Period.

(b) No material claim, audit, action, suit, proceeding, investigation, or other examination with respect to Taxes (each, a “**Tax Contest**”) is pending or, to Seller’s Knowledge, threatened with respect to the Business or Purchased Assets. There are no asserted or proposed deficiencies or assessments of Taxes from any Governmental Authorities with respect to the Business or Purchased Assets. No unresolved claim has been made by any Governmental Authority in a jurisdiction where, with respect to the Business or the Purchased Assets, the Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction.

(c) Seller has not granted any waiver of any statute of limitations regarding, or any extension of any period for the assessment of, any material amount of Tax relating to the Business or the Purchased Assets.

(d) Other than Permitted Encumbrances, there are no liens upon the Business or any of the Purchased Assets with respect to any material amount of Taxes.

(e) Seller has deducted, withheld, and timely paid to the appropriate Governmental Authority all material Taxes, except for those Taxes the validity or amount of which is being contested in good faith by appropriate proceedings (which are disclosed in Schedule 5.15(e)), relating to or imposed with respect to the operations of the Business or any of the Purchased Assets and required to be deducted, withheld, or paid in connection with amounts paid, allocated, or owing to any employee, independent contractor, creditor, or equity interest holder and has complied with all applicable Tax Laws relating to the payment, withholding, reporting, and recordkeeping requirements relating to any Taxes required to be collected or withheld.

(f) Seller has collected all material sales, use, value added, and excise Taxes required to be collected, and has remitted on a timely basis to the appropriate Governmental Authorities all material sales, use, value added, and excise Taxes required to be paid, except for those Taxes the validity or amount of which is being contested in good faith by appropriate proceedings (which are disclosed in Schedule 5.15(f)), or Seller has furnished properly completed exemption certificates.

(g) Seller has at all times been exempt from U.S. federal income tax and from income taxes imposed by the State of South Carolina (and its political subdivisions) and by other states (and their respective political subdivisions), and income and revenue produced by or with respect to the Business and the Purchased Assets has at all times been excluded from gross income by virtue of the provisions of Section 115(1) of the Code.

(h) To Seller’s Knowledge, Seller has no liability for the Taxes of any other Person as transferee or successor, by contract or otherwise.

(i) The Decommissioning Funds have not been treated, in whole or in part, as a “Nuclear Decommissioning Reserve Fund” within the meaning of Section 468A of the Code,

and the External Decommissioning Fund has, since its formation, been treated by Seller as a grantor trust for federal income tax purposes.

(j) Except for the express representations and warranties made by Seller in this Section 5.15, Section 5.6 (to the extent relating to Tax), Section 5.13(g), and Section 5.16, Seller makes no representation or warranty, express or implied, with respect to Taxes or Tax matters.

Section 5.16. Employee Benefits.

(a) Schedule 5.16(a) sets forth a true and complete list of all material Benefit Plans.

(b) With respect to each Benefit Plan, Seller has made available to Buyer copies of each of the following documents: (i) each Benefit Plan (including all amendments thereto); and (ii) the most recent determination letter received from the United States Internal Revenue Service with respect to each Benefit Plan that is intended to be qualified under Section 401(a) of the Code.

(c) Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code has received, from the Internal Revenue Service, a favorable determination letter as to its qualification under Section 401(a) of the Code on which it may rely, and nothing has occurred that would reasonably be expected to adversely affect the qualified or exempt status of such Benefit Plan.

(d) Each Benefit Plan is being and has been established, operated, funded, and administered in all material respects in accordance with any applicable requirements of the Code, ERISA, and all other Laws and regulations thereunder and in accordance with its terms. All benefits, contributions, premiums, and payments required by and due under the terms of each Benefit Plan or Law have been timely paid in all material respects in accordance with the terms of such Benefit Plan and the terms of such Law.

(e) No Benefit Plan is, Seller has not previously contributed to or been obligated to contribute to, and Seller does not have any liability or obligation (contingent or otherwise) with respect to, a “multiemployer plan” (as defined in Section 3(37) of ERISA).

(f) Except as set forth on Schedule 5.16(f), neither the execution of this Agreement nor the consummation of the transactions contemplated hereby (either alone or together with any other event) will: (i) result in the payment to any current Business Employee of any compensation or other property; (ii) accelerate the time of payment or the vesting of any compensation or benefits or provide any additional rights or benefits (including funding of compensation or benefits through a trust or otherwise) to any current Business Employee; or (iii) result in “excess parachute payments” within the meaning of Section 280G(b) of the Code.

Section 5.17. Employment Matters.

(a) Seller has made available to Buyer the following information with respect to each Business Employee: (i) title, (ii) base salary or wages, (iii) period of service with Seller, (iv) wage and hour classification (including under the Fair Labor Standards Act), (v) amount of accrued vacation leave, (vi) amount of accrued sick leave, (vii) bonus or other incentive-based compensation, (viii) principal work location, and (ix) leave of absence status (including expected return date, if known).

(b) Except as set forth on Schedule 5.17(b)(i), Seller is, and since January 1, 2017 has been, in compliance in all material respects with all Laws respecting employment of labor applicable to the Purchased Assets or the Business. Except as set forth on Schedule 5.17(b)(ii), there are no pending or, to Seller's Knowledge, threatened Actions against Seller by a Business Employee. Except as set forth on Schedule 5.17(b)(iii), to Seller's Knowledge, for the three (3) years prior to the date hereof, no Business Employee who has directly or indirectly supervised other Business Employees has been or is currently the subject of an allegation of sexual harassment or similar misconduct involving their employment with Seller, and Seller has not entered into a settlement of any matter arising out of or relating to allegations of sexual harassment or similar misconduct.

(c) Except as set forth on Schedule 5.17(c), as of the Closing Date, all compensation, including wages, commissions, and bonuses payable to employees, independent contractors, or consultants of the Business for services performed on or prior to the Closing Date will have been paid in full or will be paid in full when due.

(d) Seller is not a party to any collective bargaining agreements or other agreements with any labor organization, union, or other employee-representative organizations relating to the Business Employees.

(e) Except as set forth on Schedule 5.17(e), as of the Closing Date, all Business Employees are employed on an "at-will" basis.

(f) In the three years prior to the date hereof, Seller has complied in full with the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local, and foreign laws related to plant closings, relocations, mass layoffs, and employment losses (collectively, the "**WARN Act**"). There has been no mass layoff or plant closing that triggered the WARN Act with respect to Seller within the twelve (12) months prior to the date hereof.

Section 5.18. No Undisclosed Liabilities. Except as set forth on Schedule 5.18, Seller does not have any liabilities or obligations that would be required to be reflected on a statement of net position – business-type activities (or in the notes thereto) prepared in accordance with GAAP consistently applied, except those (a) which are adequately reflected or reserved against in the Balance Sheet (or in any notes thereto), (b) which have been incurred in the ordinary course of business consistent with past practice since the date of the Agreement to Transact, (c) that have not been and would not reasonably be expected to be, individually or in the aggregate, material to the Business, and (d) that are Excluded Liabilities.

Section 5.19. Inventory. The Inventory is owned by Seller free of all Encumbrances other than Permitted Encumbrances. The type and amount of Inventory is, and through the Closing Date will be, sufficient to enable Seller to operate the Business (including the Electric Utility Business, the FERC Project Business, and the Water Business) in all material respects in the ordinary course of business consistent with past practice. The Inventory has been maintained in accordance with Prudent Utility Practices, in all material respects, is in good operating condition and repair, and is suitable for the purposes for which it is intended to be used. No material is included in inventory or in the valuation of inventory on the Balance Sheet that is dormant, obsolete, or otherwise not suitable for use in the operations of the Business.

Section 5.20. Affiliate Relationships. Except as set forth on Schedule 5.20, there are no agreements, contracts, or other binding commitments, understandings, or arrangements, whether written or oral, affecting the Purchased Assets, the Assumed Obligations, or the Business in which any of the directors or officers of Seller has a financial interest.

Section 5.21. Brokers. Seller will be solely responsible for the fees and expenses of Centerview Partners LLC, and any other broker, finder, or investment banker entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated hereby or by any Ancillary Agreement to which Seller is (or is contemplated to be) a party based upon arrangements made by or on behalf of Seller or the Department of Administration.

Section 5.22. Assets.

(a) Except as set forth on Schedule 5.22(a), Seller owns, leases, or licenses, or has the legal right to use as currently used (which right is capable of being transferred to Buyer pursuant to this Agreement), all tangible personal property used or held for use by Seller in connection with the Business (collectively, including Inventory, the "**Personal Property**"), and such Personal Property is free of all Encumbrances other than Permitted Encumbrances, except for failures to own, lease, license, or have the transferable right to use any such Personal Property as would not reasonably be expected to, individually or in the aggregate, adversely affect the Business in any material respect. The Personal Property has been maintained in accordance with Prudent Utility Practices, in all material respects, is in good operating condition and repair (subject to normal wear and tear) and is suitable for the purposes for which it is presently used by Seller. No representation or warranty is made under this Section 5.22 with respect to Inventory or Intellectual Property, which are covered exclusively by Section 5.19 and Section 5.23, respectively.

(b) Seller does not have any subsidiaries, and, except as set forth on Schedule 5.22(b), Seller does not own or hold any capital stock, membership interests, limited liability company interests, partnership interests, or other equity or ownership interests (or rights to acquire, securities convertible into, or securities exercisable for equity or ownership interests) in any Person.

(c) Except as set forth on Schedule 5.22(c), the Purchased Assets (i) are collectively sufficient to permit Buyer to conduct and operate the Business after the Closing in all material respects in the same manner in which it has been conducted and operated prior to the

Closing, and (ii) constitute all of the rights, property, and assets necessary to conduct and operate the Business in all material respects as it is currently conducted and operated. Except for the Excluded Assets described in Section 2.3(m), Section 2.3(p), and Section 2.3(r), the Excluded Assets are not, individually or in the aggregate, material to the conduct or operation of the Business.

(d) Schedule 5.22(d) sets forth a true and complete list of the Acquired Accounts (other than accounts that may become Acquired Accounts pursuant to clause (b) of the definition of Acquired Accounts), including the names and locations of the banks or other financial institutions at which such Acquired Accounts are maintained and the names of all Persons authorized to draw thereon, make withdrawals therefrom, or have access thereto.

Section 5.23. Intellectual Property. Except as set forth on Schedule 5.23:

(a) Seller owns, or has the licenses or rights to use for the Business, all material Intellectual Property (other than the Excluded Assets) currently used in the Business or the operation of the Purchased Assets. Seller is party to a valid and enforceable license to, or is the sole and exclusive legal and beneficial owner of all right, title, and interest in and to, the material Assigned IP free and clear of all Encumbrances other than Permitted Encumbrances.

(b) All of the Assigned IP that is material to the operation of the Business is valid and enforceable, and all registrations of such material Assigned IP are subsisting and in full force and effect. Seller has taken all reasonable steps necessary to maintain and enforce such material Assigned IP and to preserve the confidentiality of all trade secrets, know-how, and other confidential information included therein. All assignments and other instruments necessary to establish, record and perfect Seller's ownership interest in any registrations of the material Assigned IP have been validly executed, delivered, and filed with, and all required filings and fees related to such registrations have been timely submitted with and paid to, the relevant Governmental Authorities and authorized registrars.

(c) There are no Actions (including any opposition, cancellation, revocation, review, or other proceeding), whether settled, pending, or threatened in writing (including in the form of offers to obtain a license) (i) alleging any infringement, misappropriation, or other violation of the Intellectual Property of any Person by Seller in the conduct of the Business or operation of the Purchased Assets; (ii) challenging the validity, enforceability, registrability, patentability, or ownership of any material Assigned IP or Seller's rights with respect to any such material Assigned IP; or (iii) by Seller or any other Person alleging any infringement, misappropriation, or other violation by any Person of any material Assigned IP. To Seller's Knowledge, there are no facts or circumstances that would reasonably be expected to give rise to any such Action. Seller is not subject to any outstanding or prospective Order (including any motion or petition therefor) that restricts or impairs, or would reasonably be expected to restrict or impair, in any material respect the ownership or use of any material Assigned IP. To Seller's Knowledge, the conduct of the Business and operation of the Purchased Assets as currently and formerly conducted, including the use of the Assigned IP and Seller's Marks in connection therewith, and the products, processes, and services of the Business and the Purchased Assets

have not infringed, misappropriated, or otherwise violated, and are not infringing, misappropriating, or otherwise violating, the Intellectual Property or other rights of any Person.

(d) To Seller's Knowledge, no Person is currently infringing, misappropriating, or otherwise violating, or no Person has infringed, misappropriated, or otherwise violated, any of the Assigned IP.

(e) Neither the execution, delivery, and performance of this Agreement or any Ancillary Agreement to which Seller is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereunder or thereunder, will result in the loss or impairment of or payment of any additional amounts with respect to, or require the consent of any other Person in respect of, Buyer's right to own or use any Assigned IP in the conduct of the Business or operation of the other Purchased Assets. Immediately following the Closing, all material Assigned IP will be owned or available for use by Buyer on the same terms as they were owned or available for use by Seller immediately prior to the Closing.

(f) Seller has taken commercially reasonable steps to protect the material information technology systems currently used in the conduct of the Business or the operation of the Purchased Assets (the "**IT Systems**"). All IT Systems are in good working condition and are sufficient for the operation of the Business and the Purchased Assets as currently operated. Seller has in place commercially reasonable disaster recovery plans, procedures, and facilities for the IT Systems and has taken commercially reasonable steps to safeguard the security, confidentiality, availability, and integrity of the IT Systems. To Seller's Knowledge, (i) there are no bugs, viruses, or malicious code in the IT Systems, and (ii) there have been no unauthorized intrusions or breaches of the security of the IT Systems since January 1, 2015.

(g) Seller has complied in all material respects with all applicable Laws and all internal or publicly posted policies, notices, and statements concerning the collection, use, processing, storage, transfer, and security of personal information in the conduct of the Business and operation of the Purchased Assets. Seller has not (i) experienced any actual, alleged, or suspected data breach or other security incident involving personal information in its possession or control or (ii) been subject to or received any notice of any audit, investigation, complaint, or other Action by any Governmental Authority or other Person concerning the collection, use, processing, storage, transfer, or protection of personal information or actual, alleged, or suspected violation of any applicable Law concerning privacy, data security, or data breach notification, in each case in connection with the conduct of the Business or operation of the Purchased Assets, and there are no facts or circumstances that would reasonably be expected to give rise to any such Action.

Section 5.24. Reports. Except as provided in Schedule 5.24, Seller has filed or caused to be filed with the applicable federal, state, or local utility commissions or regulatory bodies (including NERC and other national and regional electric reliability organizations), as the case may be, all material forms, statements, reports, and documents (including all exhibits, amendments, and supplements thereto) required to be filed by Seller with respect to the Purchased Assets, the Assumed Obligations, or the Business under applicable Law. To Seller's

Knowledge, all such filings complied in all material respects with all applicable requirements therefor in effect on the date each such form, statement, report, or document was filed.

Section 5.25. Exclusivity of Representations and Warranties. NEITHER SELLER NOR ANY OF ITS REPRESENTATIVES, NOR ANY OTHER PERSON, IS MAKING ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, ORAL OR WRITTEN, EXPRESS OR IMPLIED, EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE V (AS QUALIFIED BY THE SELLER DISCLOSURE SCHEDULES), AND SELLER HEREBY DISCLAIMS ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY SELLER, ANY OF ITS REPRESENTATIVES, OR ANY OTHER PERSON.

ARTICLE VI REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller:

Section 6.1. Organization and Good Standing. Buyer is a corporation duly organized, validly existing, and in good standing under the laws of the state of its incorporation and has all requisite corporate power and authority to own, lease, and operate its assets and to carry on its business as presently conducted. As of the Closing, Buyer will be duly qualified or licensed to do business as a foreign corporation, and is in good standing in each jurisdiction in which the conduct of the Business, or the ownership or operation of any of the Purchased Assets, by Buyer makes such qualification necessary, except, in each case, for any such failures that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of Buyer to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

Section 6.2. Authority and Enforceability. Buyer has all corporate power and authority necessary, and has taken all corporate action required on its part, to execute and deliver, and to perform its obligations under, and, subject to the satisfaction (or waiver) of the conditions to Closing set forth in Section 8.1 and Section 8.2, to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which Buyer is (or is contemplated to be) a party. No other proceedings on the part of Buyer are, or will be as of immediately preceding the Closing, necessary to authorize the execution by Buyer of this Agreement and the Ancillary Agreements to which Buyer is (or is contemplated to be) a party, the performance by Buyer of its obligations hereunder and thereunder, and the consummation of the transactions contemplated hereby and thereby. This Agreement and the Executed Ancillary Agreements to which Buyer is a party have each been duly and validly executed and delivered by Buyer, and (assuming the due execution and delivery by each other party thereto) each constitutes a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity. At the Closing, each of the Ancillary Agreements (other than any Executed Ancillary Agreements) to which Buyer is contemplated to be a party will be duly and validly executed and delivered by Buyer and will (assuming the due execution and delivery by each other party

thereto) constitute a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

Section 6.3. No Conflicts; Consents. Neither the execution, delivery, and performance by Buyer of this Agreement or any Ancillary Agreement to which Buyer is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereby or thereby, will:

(a) conflict with, or result in any breach or violation of, any of Buyer's Organizational Documents;

(b) assuming all of the Required Regulatory Approvals have been obtained, violate any Law or Order applicable to Buyer (excluding any New State Law); or

(c) result in a breach or violation of, constitute (with or without due notice or lapse of time or both) a default under, or give to others any right of termination, amendment, modification, acceleration, or cancellation of any (i) contract to which Buyer is a party, or (ii) Permit to which Buyer is subject or by which Buyer is bound;

except, in the case of clauses (b) and (c), for any such violations, breaches, defaults, terminations, amendments, modifications, accelerations, or cancellations (i) that would not reasonably be expected, individually or in the aggregate, to have a material adverse effect on the ability of Buyer to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis or (ii) that arise as a result of the specific legal, regulatory, or financial status of Seller, or as a result of facts or circumstances that specifically relate to the business or activities in which Seller is (or is proposed to be) engaged, other than the Business.

Section 6.4. Regulatory Matters. Neither the execution, delivery, and performance by Buyer of this Agreement or any Ancillary Agreement to which Buyer is (or is contemplated to be) a party, nor the consummation of the transactions contemplated hereby or thereby, will require with respect to Buyer or any of its Affiliates any consent or approval of, or declaration, filing, or notice with or to, any Governmental Authority, other than (a) Required Regulatory Approvals (and required filings with respect thereto), (b) requirements of any applicable provisions of the Securities Act or any other applicable securities Laws, (c) consents and approvals that, if not obtained, and declarations, filings, and notices that, if not made, would not reasonably be expected, individually or in the aggregate, to have a material adverse effect on the ability of Buyer to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis, (d) consents and approvals that have already been obtained and declarations, filings, and notices that have already been made, or (e) consents, approvals, declarations, filings, and notices that arise as a result of the specific legal, regulatory, or financial status of Seller, or as a result of facts or circumstances that specifically relate to the business or activities in which Seller is (or is proposed to be) engaged, other than the Business.

Section 6.5. Financial Capability. Buyer (a) has or will have at the Closing sufficient funds available to deposit the Purchase Price Escrow Amount in the Purchase Price Escrow Fund and to pay or deposit (as applicable) the Closing Date Payment, the Debt Release Consideration, and any fees, costs, and expenses incurred by Buyer or for which Buyer is responsible in connection with the transactions contemplated by this Agreement, the Ancillary Agreements, any certificate, instrument, or other document executed or delivered in connection herewith, and any of the transactions contemplated hereby and thereby; and (b) has, or at the Closing will have, the resources and capabilities (financial or otherwise) to perform its other obligations hereunder and under each Ancillary Agreement to which Buyer is (or is contemplated to be) a party. Notwithstanding anything to the contrary contained herein, the Parties acknowledge and agree that it shall not be a condition to the obligations of Buyer to consummate the transactions contemplated hereby that Buyer have sufficient funds for deposit of the Purchase Price Escrow Amount into the Purchase Price Escrow Fund and for payment or deposit (as applicable) of the Closing Date Payment, and the Debt Release Consideration.

Section 6.6. Brokers. Buyer or one of its Affiliates will be solely responsible for the fees and expenses of any broker, finder, or investment banker entitled to any brokerage, finder's, or other fee or commission in connection with the transactions contemplated hereby or by any Ancillary Agreement based upon arrangements made by or on behalf of Buyer or any of its Affiliates.

Section 6.7. Legal Proceedings. There are no Actions pending or, to Buyer's knowledge, threatened, that would reasonably be expected to result in the issuance of an Order restraining, enjoining, or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement or any Ancillary Agreement.

Section 6.8. Exclusivity of Representations and Warranties. NEITHER BUYER NOR ANY OF ITS AFFILIATES OR ITS OR THEIR REPRESENTATIVES, NOR ANY OTHER PERSON, IS MAKING ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, ORAL OR WRITTEN, EXPRESS OR IMPLIED, EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE VI, AND BUYER HEREBY DISCLAIMS ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY BUYER, ITS AFFILIATES, ITS OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSON.

ARTICLE VII

COVENANTS OF THE PARTIES

Section 7.1. Conduct of the Business. Seller covenants and agrees that, except (I) as required or otherwise expressly permitted by this Agreement (including as described on Schedule 7.1), (II) for commercially reasonable actions taken in response to any emergency (but only to the extent of any such emergency, for no longer than as required by such emergency, and provided that Seller promptly informs Buyer of any such actions), (III) as required by applicable Law or Order (other than any New State Law or any Seller Law), (IV) as required by Seller's

Debt Instruments, or (V) as otherwise approved in writing by Buyer (which approval shall not be unreasonably withheld, conditioned, or delayed), during the period from the Execution Date to the Effective Time, Seller (x) shall operate the Business in the ordinary course of business consistent with past practice, and (y) shall use commercially reasonable efforts to preserve, maintain, and protect the Purchased Assets (including the Material Permits and the Material Environmental Permits) and the Business. In addition to and without limiting the foregoing, Seller covenants and agrees that, except (I) as required or otherwise expressly permitted by this Agreement (including as described on Schedule 7.1, and provided that the first sentence of this Section 7.1 shall in no event require or permit any action or omission that violates any of the restrictions or obligations set forth below in this Section 7.1), (II) for commercially reasonable actions taken in response to any emergency (but only to the extent of any such emergency, for no longer than as required by such emergency, and provided that Seller promptly informs Buyer of any such actions), (III) as required by applicable Law or Order (other than any New State Law or any Seller Law), (IV) as required by Seller's Debt Instruments (provided that this clause (IV) shall not apply with respect to clause (e) below), or (V) as otherwise approved in writing by Buyer (which approval shall not be unreasonably withheld, conditioned, or delayed), Seller shall not:

(a) sell, transfer, assign, convey, distribute, abandon, or otherwise dispose of or subject to any Encumbrance any of the Purchased Assets, other than (i) sales and dispositions of electricity in the ordinary course of business consistent with past practice, (ii) the use or sale of Inventory in the ordinary course of business consistent with past practice, or (iii) the disposal of Purchased Assets having an aggregate value of less than \$1,000,000 and that are no longer useful in the Business;

(b) enter into any lease (as lessor) of real or personal property or any renewals thereof in connection with the Business that involves a term of more than one year or rental and other payment obligations exceeding \$1,000,000 per year in any single case (or \$5,000,000 per year in the aggregate with all other leases entered or renewed pursuant to this Section 7.1(b)), except for any lease (or renewal of a lease) that can be terminated immediately upon notice without penalty and without further payment obligations of any kind;

(c) enter into any joint venture, strategic alliance, exclusive dealing, noncompetition or similar contract or arrangement;

(d) (i) authorize, or make any commitment with respect to, any single capital expenditure for the Business that is in excess of \$5,000,000 or capital expenditures which are, in the aggregate, in excess of \$10,000,000 for the Business taken as a whole, or (ii) otherwise acquire or agree to acquire assets, properties, or rights for a purchase price in excess of \$5,000,000 (individually or in the aggregate with all other assets, properties, or rights so acquired);

(e) (i) incur, create, assume, or otherwise become liable for Indebtedness or (ii) extend the term or tenor (or otherwise delay the maturity date) of any outstanding Indebtedness, other than (A) in the case of the foregoing clause (i), accounts payable incurred in the ordinary course of business consistent with past practice and (B) in the case of both of the

foregoing clauses (i) and (ii), refinancing of Indebtedness with maturities of less than six months with replacement Indebtedness with an equal or lesser principal amount that has a lower interest rate, a maturity of less than six months, and no Make-Whole Amounts or prepayment, termination, or other similar amounts or limitations and that will not otherwise increase the amount of the Debt Release Consideration (including defeasance costs) required to be deposited or paid pursuant to Section 3.2 (relative to the amount of the Debt Release Consideration that would have otherwise been required to be deposited or paid pursuant hereto before giving effect to such refinancing);

(f) assume, guarantee, endorse, or otherwise become liable or responsible (whether directly, contingently, or otherwise) for any obligation (other than obligations to which Section 7.1(e) applies) of any Person in respect of which Seller's liability could exceed \$1,000,000 (or \$5,000,000 in the aggregate with all other obligations Seller has assumed, guaranteed, endorsed, or otherwise become liable or responsible for pursuant to this Section 7.1(f)), other than obligations arising in the ordinary course of business consistent with past practice that do not adversely affect the Business, the Purchased Assets, or Assumed Obligations;

(g) make any loans, advances, or capital contributions to or investments in any Person, except in the ordinary course of business consistent with past practice in an amount not to exceed \$5,000,000 (individually or in the aggregate with all other loans, advances, capital contributions or investments made pursuant to this Section 7.1(g));

(h) enter into, amend, modify, renew, extend the term of, grant a waiver in respect of, cancel, terminate, or consent to the termination of any Material Contract (or any arrangement that would be a Material Contract if in existence as of the Execution Date), Material Permit, or Material Environmental Permit, other than any amendment, modification, or waiver that is not material to such Material Contract, Material Permit, or Material Environmental Permit and, in all cases, is otherwise in the ordinary course of business consistent with past practice;

(i) enter into any agreements, contracts, or other binding commitments, understandings, or arrangements (including any employment, retention, severance, change in control, or indemnification agreements), whether written or oral, with any of the directors, officers, or employees of Seller, other than any such agreements, contracts, or other binding commitments, understandings, or arrangements that constitute Excluded Assets (and solely give rise to Excluded Liabilities);

(j) except as required by any applicable Law (other than any New State Law or any Seller Law) or GAAP, (i) change any accounting methods, principles, practices, or procedures, or (ii) make any change in Seller's cash management practices or accounts receivables or accounts payable policies, practices, or procedures;

(k) make, revoke, or modify any material Tax election, settle or compromise any material Tax liability, file any material Tax Return relating to the Purchased Assets or the Business other than on a basis consistent with past practice, or amend any material Tax Return relating to the Purchased Assets or the Business;

(l) (i) increase or accelerate the compensation or incentive compensation payable or to become payable or the benefits provided to any of its Business Employees, except for normal merit, cost-of-living, and promotion-related base salary or wage increases in the ordinary course of business consistent with past practice, (ii) grant any change in control, severance, or termination payment to any Business Employee, (iii) pay, loan, or advance any amount to any Business Employee, or (iv) establish, adopt, enter into, amend, or terminate any Benefit Plan (or any arrangement that would be a Benefit Plan if in existence as of the Execution Date);

(m) enter into or amend any collective bargaining agreement or other agreement with any labor organization, union, or other employee-representative organization;

(n) pay, discharge, or satisfy any claims, liabilities, or obligations relating to the Business or the Purchased Assets prior to the same being due in excess of \$5,000,000 in the aggregate;

(o) cancel, compromise, waive, or release any right or claim relating to the Business or the Purchased Assets (other than rights or claims in respect of any of the Excluded Liabilities, but only to the extent that the cancellation, compromise, waiver, or release of such rights or claims would not result in any restrictions on the Business or the Purchased Assets (or the operation thereof));

(p) commence any Action (or any threatened Action) relating to the Business, the Purchased Assets, or the Assumed Obligations;

(q) (i) consent or agree to the entry or issuance of any Order applicable to the Business or the Purchased Assets (or that otherwise gives rise to Assumed Obligations), or (ii) compromise, waive, release, or settle any Action (or any threatened Action), except where both (A) such Action is a Retained Action, and (B) such compromise, waiver, release, or settlement would neither (x) result in any restrictions on the Business or the Purchased Assets (or the operation thereof) or result in any increase in the Assumed Obligations, nor (y) violate Section 7.2(c);

(r) fail to maintain insurance coverage (i) substantially equivalent to Seller's insurance coverage as in effect on the Execution Date (including the insurance coverage provided under the policies listed on Schedule 5.12) so long as such coverage is available or (ii) required by a Material Contract;

(s) engage in any new line of business or activities;

(t) amend or propose to amend Seller's Charter or its Organizational Documents, form any subsidiaries, or acquire any capital stock, membership interests, limited liability company interests, partnership interests, or other equity or ownership interests (or rights to acquire, securities convertible into, or securities exercisable for equity or ownership interests) in any Person;

(u) merge or consolidate (or enter any agreement to do the same) with any Person, or dissolve, adopt a plan of complete or partial liquidation, or effect a restructuring or reorganization;

(v) (i) hire any individual, other than to replace any employee of Seller who may have resigned or been terminated in accordance with Seller's past practice, or (ii) engage any consultant, unless such consulting arrangement is terminated (or terminable) or expires prior to the Effective Time and will not constitute a Purchased Asset or Assumed Obligation;

(w) prepare any new depreciation studies or implement new depreciation rates in Seller's financial reporting that are different from the rates codified in Seller's depreciation study dated January 20, 2014, as in effect as of November 26, 2019;

(x) enter into any agreement that would require a consent or payment in connection with a change of control or a transfer of substantially all of the assets of the Seller;

(y) distribute, transfer, or otherwise disburse (i) any Cash and Cash Equivalents to the State of South Carolina or any State Authority, except on or immediately prior to Closing or pursuant to (A) agreements entered before November 26, 2019 and disclosed on Schedule 7.1(y), or (B) any Laws in effect on November 26, 2019, or (ii) any amounts out of the Decommissioning Funds;

(z) (i) impose any new charges on Customers, or modify or adjust any rates, charges, or tariffs, except for such ordinary adjustments to rates, charges, or tariffs that are subject to periodic adjustment clauses that were in place as of November 26, 2019 and which cannot be delayed beyond Closing, or (ii) modify or alter the Service Territory; or

(aa) agree or commit to take any action which would be a violation of the restrictions set forth in this Section 7.1.

Section 7.2. Access.

(a) To the extent permitted by applicable Law (but without regard to any Seller Law or any New State Law), between the Execution Date and the Closing Date, Seller will, during ordinary business hours and upon reasonable notice: (i) give Buyer and Buyer's Representatives reasonable access to the Business and the Purchased Assets, including any Documents; (ii) permit Buyer and Buyer's Representatives to make such reasonable inspections thereof as Buyer may reasonably request; and (iii) afford Buyer and Buyer's Representatives such access to officers and employees of Seller as Buyer may reasonably request (to the extent such access does not unreasonably interfere (I) with the operations of Seller or the Business or (II) the day-to-day activities of such officer or employee); provided, however, that (A) in the case of the foregoing clauses (i) and (ii), any such inspection shall be conducted (x) at Buyer's sole expense and (y) under the supervision of Seller's personnel and in such a manner as not to materially interfere with the operation of the Business or any other Person; and (B) notwithstanding anything to the contrary in this Agreement, Seller shall not be required to provide access to any information (or to any officer or employee of Seller) to Buyer or its Representatives if (x) such access would jeopardize any attorney-client or other legal privilege

(provided that Seller shall use commercially reasonable efforts to allow for such access or disclosure to the maximum extent that does not result in a loss of any such attorney-client or other legal privilege, including by means of entry into a customary joint defense agreement that would alleviate the loss of such privilege), (y) such access would contravene any applicable Laws (other than any Seller Law or any New State Law), fiduciary duty, or binding agreement entered into prior to the Execution Date (provided that Seller shall use commercially reasonable efforts to make appropriate substitute arrangements to permit reasonable disclosure not in violation of any Law, fiduciary duty, or binding agreement), or (z) in the case of access to information, the information to be accessed should not be disclosed due to its competitively sensitive nature. Buyer shall indemnify and hold harmless Seller from and against any Losses incurred by Seller or its Representatives by any action of Buyer or Buyer's Representatives while present on any of the Purchased Assets or other premises to which Buyer is granted access hereunder (including restoring any such premises to the condition substantially equivalent to the condition such premises were in prior to any such investigation). Notwithstanding anything in this Section 7.2 to the contrary, (x) Buyer will not have access to personnel records if such access would, in Seller's good faith judgment, subject Seller to risk of liability or otherwise violate applicable Law (other than any Seller Law or any New State Law), including the Health Insurance Portability and Accountability Act of 1996 and (y) any inspection relating to environmental matters by or on behalf of Buyer will be strictly limited to wetland and cultural resource investigations, and visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Buyer shall not have any right to perform or conduct any other environmental investigation or inspection, including sampling or testing at, in, on, around, or underneath any of the Purchased Assets.

(b) In order to facilitate the resolution of any claims made against or incurred by Seller (as it relates to the Business), for a period of seven years after the Closing Date or, if shorter, the applicable period specified in Buyer's document retention policy, Buyer shall (i) retain the books and records of the Business relating to periods prior to the Closing Date that constitute Purchased Assets and (ii) upon reasonable notice, afford Seller and its Representatives reasonable access (including the right to make, at Seller's expense, photocopies) during normal business hours, to such books and records to the extent relating exclusively to the operation of the Business prior to the Closing Date; provided, however, that Buyer shall notify Seller in writing at least 30 days in advance of destroying any such books and records prior to the seventh anniversary of the Closing Date in order to provide Seller the opportunity to copy such books and records in accordance with this Section 7.2(b).

(c) Buyer shall, and shall cause its Affiliates and its and their respective Representatives to, reasonably cooperate with Seller in the defense of each Retained Action. In particular, Buyer shall, and shall cause each of its Affiliates to, make available to Seller and its Representatives on a reasonable basis Buyer's and its Affiliates' respective Representatives and Persons in their employ and control for interviews, for deposition testimony, for trials, and for hearings with respect to the Retained Actions to the extent reasonably germane thereto (provided that such interviews, testimony, trials, and hearings do not unreasonably interfere with the execution of any such Representative's or other Person's duties, the operation of the Business, or the operation of any other business of Buyer or its Affiliates) and to make all records, materials, and information relating thereto in the possession or control of Buyer or its Affiliates available

on a reasonable basis to Seller and its Representatives as is reasonably required by Seller or its Representatives (subject in each case to the qualifications in Section 7.2(a)(iii), substituting Buyer for “Seller” and Seller for “Buyer” therein for purposes of this provision). Seller shall pay the reasonable documented out-of-pocket expenses incurred by Buyer and its Affiliates in connection with such cooperation.

(d) With respect to each Assumed Action: (i) Seller shall, and shall cause its Representatives to, reasonably cooperate with Buyer in the defense of such Assumed Action; (ii) Seller will have the right to participate in the defense of such Assumed Action, including appointing separate counsel (at Seller’s expense), and be entitled to receive copies of all pleadings, notices, and communications with respect to such Assumed Action as Seller may reasonably request; (iii) Buyer shall, in consultation with Seller (for so long as Seller is a party to such Assumed Action), make all decisions and determine all actions to be taken with respect to the defense and settlement of such Assumed Action and Seller shall not pay, compromise, settle, or otherwise dispose of such Assumed Action without the prior written consent of Buyer; and (iv) in no event will Seller agree, without the prior written consent of Buyer, to any relief binding on Buyer, any of its Affiliates, the Business, or the Purchased Assets.

(e) In order to facilitate the resolution of any claims made against or incurred by Buyer, for a period of seven years after the Closing or, if shorter, the applicable period specified in Seller’s document retention policy, Seller shall (i) retain the books and records relating to the Business that do not constitute Purchased Assets and (ii) upon reasonable notice, afford Buyer and its Representatives reasonable access (including the right to make, at Buyer’s expense, photocopies), during normal business hours, to such books and records to the extent relating exclusively to the Business; provided, however, that Seller shall notify Buyer in writing at least 30 days in advance of destroying any such books and records prior to the seventh anniversary of the Closing Date in order to provide Buyer the opportunity to copy such books and records in accordance with this Section 7.2(e).

(f) Without limiting the generality of Section 7.2(a), between the Execution Date and the Effective Time, Seller shall deliver to Buyer (i) as soon as available and in any event within 120 days after the end of each fiscal year of Seller, a copy of the audited financial statements of the Business for such fiscal year (including an audited statement of net position – business-type activities as of the end of such fiscal year, and an audited statement of revenues, expenses and changes in net position – business-type activities and an audited statement of cash flows – business-type activities, in each case for such fiscal year), and (ii) as soon as available and in any event within 60 days after the end of each quarter of each fiscal year of Seller, a copy of the unaudited financial statements of the Business for such quarter (including an unaudited statement of net position – business-type activities as of the end of such quarter, and an unaudited statement of revenues, expenses and changes in net position – business-type activities and an unaudited statement of cash flows – business-type activities, in each case for the portion of the fiscal year through the end of such quarter). Seller shall prepare such financial statements in accordance with GAAP applied on a consistent basis.

(g) In addition to and without limiting the foregoing, to the extent permitted by applicable Law (but without regard to any Seller Law or any New State Law), between the

Execution Date and the Closing Date, Seller shall, on a prompt and on-going basis, during ordinary business hours and upon reasonable notice: (i) make available to Buyer the books and records of Seller, including any subsidiary systems and ledgers, reports, and data files, (ii) run and make available to Buyer reports, and otherwise make available to Buyer information, regarding the financial transactions recorded by Seller before the Effective Time, and (iii) afford Buyer access to officers and employees of Seller (to the extent such access does not unreasonably interfere with (I) the operations of Seller or the Business or (II) the day-to-day activities of such officer or employee), in each case of the foregoing clauses (i), (ii), and (iii), as reasonably requested by Buyer to permit Buyer to perform financial statement testing for purposes of confirming that the unaudited financial reports and results delivered pursuant to Section 7.2(f) are presented fairly in all material respects in accordance with GAAP and to otherwise assess, evaluate, or confirm on an on-going basis (throughout the period between the Execution Date and the Closing Date) the absence of Pre-Closing Accounting Errors and the estimates, amounts, and other information that are to be reflected in (or that are to be used to prepare) the Preliminary Closing Statement (including the estimates, amounts, and other information that are to be reflected in, or that are to be used to prepare, the Estimated Net Working Capital, Estimated Decommissioning Funds, Estimated CapEx Spend, Estimated Pre-Closing Accounting Error Amount, Pre-Closing Debt Face Value, and Pre-Closing Debt Increase Amount); provided, however, that (A) in the case of the foregoing clauses (i) and (ii), all such activities shall be undertaken (x) at Buyer's sole expense and (y) under the supervision of Seller's personnel and in such a manner as not to materially interfere with the operation of the Business or any other Person; and (B) notwithstanding anything to the contrary in this Agreement, Seller shall not be required to provide access to any information (or to any officer or employee of Seller) to Buyer or its Representatives if (x) such access would jeopardize any attorney-client or other legal privilege (provided that Seller shall use commercially reasonable efforts to allow for such access or disclosure to the maximum extent that does not result in a loss of any such attorney-client or other legal privilege, including by means of entry into a customary joint defense agreement that would alleviate the loss of such privilege), (y) such access would contravene any applicable Laws (other than any Seller Law or any New State Law), fiduciary duty, or binding agreement entered into prior to the Execution Date (provided that Seller shall use commercially reasonable efforts to make appropriate substitute arrangements to permit reasonable disclosure not in violation of any Law, fiduciary duty, or binding agreement), or (z) in the case of access to information, the information to be accessed should not be disclosed due to its competitively sensitive nature. Buyer shall indemnify and hold harmless Seller from and against any Losses incurred by Seller or its Representatives by any action of Buyer or Buyer's Representatives while present on any of the Purchased Assets or other premises to which Buyer is granted access hereunder (including restoring any such premises to the condition substantially equivalent to the condition such premises were in prior to any such investigation). If Seller fails to comply with the foregoing covenant, and Buyer notifies Seller in writing of such failure to comply, then, notwithstanding anything to the contrary in this Agreement (and without limiting any other remedies that may be available to Buyer hereunder), Buyer shall not be obligated to consummate the Closing until after Seller remedies such non-compliance to Buyer's reasonable satisfaction and Buyer has completed its financial statement testing and other assessments, evaluations, and confirmations. For purposes of this Section 7.2(g), references to any obligation of Seller to "make available" to Buyer books, records, reports, or other information shall mean

that such information is to be either (A) posted to the virtual data room, or (B) delivered in physical form or by electronic means directly to Buyer or its Affiliate.

Section 7.3. Expenses. Except to the extent otherwise required by the Enabling Legislation, Buyer shall bear sole responsibility for payment of all filing, recording, transfer, or other fees or charges of any nature in connection with receipt of any Required Regulatory Approvals or otherwise payable pursuant to any provision of any Law, Order, or Franchise (excluding any New State Law or any Seller Law) in connection with the sale, assignment, conveyance, transfer, and delivery by Seller of the Purchased Assets to Buyer and Buyer's assumption of the Assumed Obligations. In addition, Buyer shall (a) bear all other costs and expenses incurred by Buyer in connection with this Agreement and the transactions contemplated hereby irrespective of whether the transactions contemplated hereby are consummated and (b) at the Closing (and only if the Closing occurs), pay Seller an amount equal to \$15,000,000 (the "**Expense Reimbursement Amount**") to offset the costs and expenses incurred by Seller and the Department of Administration in connection with this Agreement and the transactions contemplated hereby. Except as otherwise expressly set forth in this Section 7.3, Seller shall bear all costs and expenses incurred by Seller, the Department of Administration, their respective Affiliates, or the State of South Carolina in connection with the Bidding Process, as well as this Agreement and the transactions contemplated hereby, irrespective of whether the transactions contemplated hereby are consummated.

Section 7.4. Further Assurances; Wrong Pockets.

(a) Subject to the terms and conditions of this Agreement, including Section 7.5, each of the Parties will use commercially reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper, or advisable under applicable Law or otherwise as promptly as reasonably practicable to consummate and make effective the transactions contemplated hereby, including using commercially reasonable efforts to obtain satisfaction of the conditions precedent to each Party's obligations hereunder.

(b) Notwithstanding anything in this Agreement or any Transfer Instrument to the contrary, this Agreement and the Transfer Instruments shall not constitute a transfer or assignment (or an attempted transfer or assignment) of any Purchased Asset or any benefit or obligation arising thereunder or resulting therefrom if an attempted transfer or assignment thereof, without the consent of a third party (including any Governmental Authority), would constitute a breach or other contravention of such Purchased Asset or a violation of Law (excluding any New State Law or any Seller Law), or in any way adversely affect the rights of Buyer under, or use by Buyer of (including in the operation of the Business as currently conducted), such Purchased Asset (any such Purchased Asset, a "**Non-Assignable Asset**"). Seller shall use commercially reasonable efforts to obtain, promptly following the Execution Date, any consents or waivers of third parties (including Governmental Authorities) required to transfer and assign to Buyer any Non-Assignable Asset that requires the consent of a third party for transfer or assignment, without any conditions to such transfer or assignment or any changes or modifications of terms thereunder. Buyer shall use commercially reasonable efforts to cooperate with Seller and provide such assistance as Seller may reasonably request in connection with obtaining such consents and waivers. Notwithstanding anything to the contrary herein,

neither Buyer nor Seller shall have any obligation to pay money, grant any accommodation (financial or otherwise), or commence or participate in any Action in order to secure the consent of any third party in connection with the assignment and transfer of any Non-Assignable Asset to Buyer. Buyer acknowledges and agrees that, except as otherwise expressly provided in this Agreement and subject to Seller's compliance with the terms of this Agreement (including this Section 7.4), Seller shall not have any liability to Buyer arising out of or relating to the failure to obtain any such consent that may be required in connection with the transactions contemplated by this Agreement or the Transfer Instruments or because of any circumstances resulting therefrom. If any such consent is not obtained prior to Closing and as a result thereof Buyer shall be prevented from receiving the rights and benefits with respect to a Non-Assignable Asset intended to be transferred under Section 2.2, or if any attempted assignment would adversely affect the rights of Seller thereunder such that Buyer would not, in fact, receive all the rights and benefits with respect to such Non-Assignable Asset intended to be transferred under Section 2.2, then (i) Seller shall retain ownership of such Non-Assignable Asset for the benefit of Buyer, and (ii) Seller and Buyer shall cooperate in any lawful and commercially reasonable arrangement, as Seller and Buyer shall agree (such agreement not to be unreasonably withheld, conditioned or delayed), which arrangement shall be implemented as of the Closing Date (or, if the requirement to obtain any such consent is not known until after the Closing, as soon as reasonably practicable after such requirement becomes known), under which Buyer would, to the maximum extent permitted by applicable Law (excluding any Seller Law) and any agreement governing such Non-Assignable Asset, obtain the claims, rights, and benefits under such Non-Assignable Asset (including, in the case of any Non-Assignable Asset that consists of any right, title, or interest in a Generation Facility, any claims or rights of Seller to capacity, energy, or other output of such Generation Facility, and any rights of Seller to schedule such capacity, energy, or other output, or to receive notices or information regarding such Generation Facility or such capacity, energy, or other output) and assume the economic burdens and obligations with respect thereto in accordance with this Agreement to enable Buyer to operate the Business after Closing as currently operated, including by subcontracting, sublicensing, or subleasing to Buyer or otherwise providing necessary access to such Non-Assignable Asset to Buyer (without payment of additional consideration therefor); provided, that (A) all reasonable out-of-pocket expenses of such cooperation and related actions shall be paid by Seller (unless such consent constitutes a Seller Consent, or the requirement to obtain such consent is otherwise specifically disclosed on Schedule 5.3, as of the Execution Date, in which case the reasonable out-of-pocket expenses of such cooperation and related actions with respect to such Non-Assignable Asset shall be paid by Buyer), (B) Seller shall continue to use commercially reasonable efforts under this Section 7.4(b) to obtain such consent from such third party to permit the transfer of such Non-Assignable Asset as a Purchased Asset hereunder, and shall continue to hold such Non-Assignable Asset for the benefit of Buyer hereunder, until such Non-Assignable Asset is transferred to Buyer as a Purchased Asset as originally contemplated or until Buyer consents otherwise in writing, and (C) to the extent any such Non-Assignable Assets that cannot be transferred at Closing, individually or collectively, are necessary for Buyer to operate the Business in the manner, if any, required by Buyer's Required Regulatory Approvals, or where the inability to transfer such non-Assignable Asset(s) at Closing would otherwise have or reasonably be expected to materially and adversely affect the operation of the Business following the Closing, Buyer shall not be obligated to consummate the Closing until the Parties have reached agreement on a mutually acceptable alternative arrangement to be implemented at Closing with respect thereto. All property

interests, while retained by Seller as Non-Assignable Assets hereunder, shall be deemed to continue their prior public purpose as long as such Non-Assignable Assets continue to be used for the sale and provision of electricity and water through the operation of the Business from such Non-Assignable Assets. Seller shall promptly pay to Buyer when received all monies received by Seller under such Non-Assignable Asset or any claim or right or any benefit arising thereunder and Buyer shall indemnify and promptly pay Seller for all liabilities of Seller associated with such Non-Assignable Asset (other than any such liabilities that constitute Excluded Liabilities). Notwithstanding any provision in this Section 7.4(b) to the contrary, (I) nothing in this Section 7.4(b) shall waive or modify the condition set forth in Section 8.2(d) or otherwise permit such condition to be satisfied by the receipt of anything other than all Seller Consents in form and substance reasonably satisfactory to Buyer, and (II) in no event shall this Section 7.4(b) obligate Buyer to consider or agree to any alternative arrangement with respect to a Non-Assignable Asset to permit the Closing to occur if the transfer of such Non-Assignable Asset at Closing requires receipt of a Seller Consent and such Seller Consent has not been obtained.

(c) If Buyer reasonably requires any Franchise, or any easement or right-of-way across land owned by another Governmental Authority, for Buyer to continue to use, maintain, and operate the Purchased Assets and the Business after the Closing in the manner used, maintained, and operated by Seller prior to the Closing, Seller shall, subject to and in accordance with any requirements of applicable Law (excluding any Seller Law), and without payment of any additional consideration therefor, grant (or use commercially reasonable efforts to arrange for other appropriate Governmental Authorities to grant) to Buyer such Franchise, easement, or right-of-way. In addition to the foregoing, to the extent that any of the rights, title, or interests that Seller has in, to, or under any of the Purchased Assets arise by virtue of Seller's status as a body corporate and politic of the State of South Carolina, such that, upon transfer to Buyer, Buyer would not enjoy the same rights, title, or interests in, to, or under such Purchased Assets (e.g., rights of access or use to portions of property), the Parties shall comply with Section 7.4(b), *mutatis mutandis*, as if a third party consent were required in order to transfer all right, title, and interest in, to, and under such Purchased Asset.

(d) Subject to the terms and conditions of this Section 7.4, (i) Seller shall execute and deliver such further instruments of conveyance and transfer and take such additional action as Buyer may reasonably request to effect, consummate, confirm, or evidence the sale and transfer to Buyer of the Purchased Assets and the other transactions contemplated by this Agreement, and (ii) Buyer shall, and shall cause its Affiliates to, execute and deliver such further instruments of assumption and take such additional action as Seller may reasonably request to effect, consummate, confirm, or evidence the transactions contemplated by this Agreement.

(e) Without limiting the generality of the foregoing, subject to the terms and conditions of this Section 7.4, if at any time following the Closing it becomes apparent that any Purchased Asset that should have been transferred to Buyer pursuant to this Agreement was not so transferred, or any Excluded Asset was inadvertently transferred to Buyer, Seller or Buyer shall, and shall cause its Affiliates to, as applicable, (i) in each case as promptly as practicable, transfer all rights, title, and interest in (A) such Purchased Asset to Buyer or as Buyer may direct, or (B) such Excluded Asset to Seller or as Seller may direct, as applicable, in each case for no

additional consideration; and (ii) until such time as such transfer is completed, hold its right, title, and interest in and to such Purchased Asset (in the case of Seller) or Excluded Asset (in the case of Buyer) in trust for the applicable transferee.

Section 7.5. Governmental Approvals.

(a) Promptly after the Execution Date (and in any event within 30 Business Days following the Execution Date), (i) Buyer shall file or cause to be filed with the appropriate Governmental Authority the required notifications, applications, forms, or reports for all FERC Approvals and PSCSC Approvals, and (ii) Seller and Buyer shall each file or cause to be filed with the appropriate Governmental Authority the required notifications, applications, forms, or reports for all other Required Regulatory Approvals; provided that Seller shall not file any such notification, application, form, or report except at Buyer's direction or with Buyer's prior consent. Buyer will (and will cause its Affiliates to) cooperate with Seller and use reasonable best efforts (except as provided below) to, and Seller will (as directed by Buyer) cooperate with Buyer and use reasonable best efforts to, (x) prepare and file as promptly as practicable all necessary applications, notices (including notice to DOE of the assignment of Seller's rights and duties under the Standard Contract and Standard Contract Settlement Agreement), petitions, and filings and execute all agreements and documents, to the extent required by Law or Order for consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals), (y) obtain the transfer to Buyer of all Transferable Permits and the reissuance to Buyer of all Permits that are not Transferable Permits, and (z) obtain the consents, approvals, and authorizations of all Governmental Authorities to the extent required by Law or Order for consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals); provided, however, (I) notwithstanding the foregoing, solely with respect to any requirements of any State Law or State Order (including with respect to any filing, document, or action required thereby), the transfer or reissuance of Permits issued by (or otherwise obtained from) State Authorities, or any consents, approvals, or authorizations of State Authorities (including the PSCSC Approvals), Buyer's obligations under this sentence shall be to use commercially reasonable efforts and not reasonable best efforts, and in no event shall this sentence require Buyer to use greater than commercially reasonable efforts in respect of any of the foregoing (or require Buyer to agree to the inclusion in any PSCSC Approval of any term or requirement that varies from the terms and requirements set forth in Exhibit I); (II) Buyer shall not be subject to the obligations set forth in the foregoing clause (x) and clause (z) with respect to applications, notices, petitions, filings, agreements, or documents, or consents, approvals, or authorizations, required by New State Laws or Seller Laws; and (III) Seller shall not file any such applications, notices, petitions, or filings or execute any such agreements or documents (or make any submission to, or engage in any other communication with, any Governmental Authority to obtain the transfer or reissuance of any such Permits or to obtain any such consent, approval, or authorization of any Governmental Authority), except at Buyer's direction or with Buyer's prior consent. Buyer will determine the appropriate time of all such filings and notifications (and in making such determination Buyer will consult and collaborate in good faith with Seller and consider in good faith the views of Seller, but will not be bound by such views), and each Party will, and will cause its Affiliates to, furnish to the other Party necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by

any Governmental Authority; provided that Seller shall not respond to any such request from any Governmental Authority except at Buyer's direction or with Buyer's prior consent. To the extent permitted under applicable Law (but without regard to any Seller Laws), Seller and Buyer each will have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Party or any of its Affiliates in connection with the transactions contemplated hereby; provided that, for the avoidance of doubt, the foregoing shall not give either Party the right to review any information or documents filed or submitted by the other Party or its Affiliates pursuant to Item 4(c) or Item 4(d) of the Notification and Report Form For Certain Mergers and Acquisitions (FTC Form C4). In addition to the foregoing, each Party agrees that prior to the Closing, other than in the ordinary course of business, it will not separately file or make any applications, notices, petitions, or filings to or with FERC, NRC, or PSCSC that would reasonably be expected to impede or prevent obtaining the Required Regulatory Approvals or the consummation of the transactions contemplated by this Agreement; provided, however, the foregoing shall in no way limit Buyer or its Affiliates from engaging in the transactions (or potential transactions) described on Schedule 7.5(a) (or making any filing or transfer in furtherance thereof). Nothing in this Section 7.5(a) will apply to or restrict communications or other actions by a Party with or with respect to any Governmental Authority in connection with its business in the ordinary course of business.

(b) Notwithstanding anything in this Section 7.5 to the contrary, in connection with any Required Regulatory Approvals, Seller will not object to Buyer leading, in cooperation with Seller, (i) the scheduling and conducting of all formal meetings with all Governmental Authorities (and the staffs thereof), (ii) the coordination and making of all Required Regulatory Approvals, and (iii) the process for obtaining any consents, registrations, approvals, permits, and authorizations of any Governmental Authorities, in each case, as may be necessary or advisable to be made or obtained in connection with the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated by this Agreement. Buyer shall also have the right to reasonably determine the content, terms, and conditions of such Required Regulatory Approvals (and any amendments or supplements thereto) and filings (but for the avoidance of doubt, and notwithstanding anything to the contrary in this Section 7.5, the PSCSC Approvals shall contain all of the key terms and requirements set forth in Exhibit I), and to resolve any investigation or other inquiry of any Governmental Authority (and the staffs thereof), including the PSCSC, in each case, as may be necessary or reasonably advisable to be made or obtained (in the case of such applications or filings) or resolved (in the case of such investigations and other inquiries), in connection with the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated by this Agreement. Prior to making any material decisions pursuant to this Section 7.5(b), Buyer shall consult and collaborate in good faith with Seller with respect to such decisions and consider in good faith the views of Seller (but will not be bound by such views). Consistent with the foregoing, to the fullest extent practicable and permitted by Law (but without regard to any Seller Laws), in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Authority in connection with the transactions contemplated hereby, each Party shall (and will cause its Affiliates to): (A) inform the other Party in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any

of the foregoing; and (B) use its reasonable best efforts to provide the other Party a reasonable opportunity to review in advance and, to the extent practicable, consult with the other Party on and consider in good faith the views of the other Party in connection with, all material information that appears in any filing made with, written materials submitted to, or oral presentations or testimony made to any Governmental Authority in connection with the transactions contemplated by this Agreement (but, in the case of Buyer, Buyer will not be bound by any such views of Seller); it being understood further that (x) except as required by applicable Law (but without regard to any Seller Laws or New State Laws), Seller will not engage in any such communication, meeting, or other contact, and will not make any such filing, submit any such material, or provide such oral presentation or testimony, except as directed by Buyer or with Buyer's prior written consent, (y) Seller agrees not to schedule, to the extent reasonably practicable, any substantive meetings or substantive communications with any Governmental Authority regarding the transactions contemplated by this Agreement without giving Buyer or its Representatives a reasonable opportunity to participate in such meeting or communication to the extent permitted by such Governmental Authority and to the extent pertaining to matters involving any of the Required Regulatory Approvals, and (z) in any event the Parties shall keep each other reasonably apprised of all material substantive communications with Governmental Authorities of which they are aware regarding the transactions contemplated by this Agreement. Nothing in this Section 7.5(b) will apply to or restrict communications or other actions by a Party with or with respect to any Governmental Authority in connection with its business in the ordinary course of business. Notwithstanding anything in this Agreement to the contrary, for purposes of this Section 7.5(b), the term "Governmental Authority" shall not include Seller or the Department of Administration.

(c) Without limiting the foregoing, neither Seller nor Buyer shall, and Buyer shall cause its Affiliates not to, take any action, including (i) acquiring any asset, property, business, or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise), (ii) making any filing or transfer, or (iii) taking any other action, that in each case would reasonably be expected to materially adversely affect obtaining any consent contemplated by this Section 7.5; provided, however, the foregoing shall in no way limit Buyer or its Affiliates from engaging in the transactions (or potential transactions) described on Schedule 7.5(a) (or making any filing or transfer in furtherance thereof). In furtherance of and without limiting any of Buyer's covenants and agreements under this Section 7.5, Buyer shall, and shall cause each of its Affiliates to, use its reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Authority in connection with obtaining the Required Regulatory Approvals, so as to enable the Closing to occur as promptly as reasonably practicable, including: (i) agreeing to conditions imposed by, or taking any action required by, any Governmental Authority, (ii) defending through litigation on the merits, including appeals, any claim asserted in any court or other Action by any Person, including any Governmental Authority, that seeks to prevent or prohibit or impede, interfere with, or delay the consummation of the Closing; (iii) proposing, negotiating, committing to, and effecting, by consent decree, hold separate order, or otherwise, the sale, divestiture, licensing, or disposition of any Purchased Assets, including entering into customary ancillary agreements relating to any such sale, divestiture, licensing, or disposition; (iv) agreeing to any limitation on the conduct of Buyer or its Affiliates after the

Closing with respect to the Purchased Assets; and (v) agreeing to take any other action relating to the Business or the Purchased Assets as may be required by a Governmental Authority in order to effect each of the following: (A) obtaining all Required Regulatory Approvals as soon as reasonably practicable and in any event before the Termination Date, (B) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary, or permanent, that is in effect that prohibits, prevents, or restricts consummation of, or impedes, interferes with, or delays, the Closing, and (C) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting, or restricting consummation of the Closing or impeding, interfering with, or delaying the Closing. Notwithstanding anything in this Agreement to the contrary, for purposes of this Section 7.5(c), the term “Governmental Authority” (and the term “Person” in clause (ii) of the second sentence of this Section 7.5(c)) shall not include any State Authority.

(d) Notwithstanding the foregoing or anything in this Agreement to the contrary, (i) (A) Buyer shall not be required to, in connection with obtaining the Required Regulatory Approvals, consent to or take any action, in each case, that, individually or in the aggregate, would reasonably be expected to have a material adverse effect on the business, assets, results of operations, or financial condition of the Business taken as a whole, and (B) Seller shall not, in connection with obtaining the Required Regulatory Approvals, consent to or take any action not otherwise consented to by Buyer, and (ii) neither Buyer nor its Affiliates shall be required, in connection with obtaining the Required Regulatory Approvals, to (A) sell, divest, license, dispose of, hold separate, discontinue, limit, restrict, or change, or otherwise take any action with respect to, any businesses, assets, properties, or interests of Buyer or its Affiliates (other than the Business or the Purchased Assets, subject to the foregoing clause (i)), or agree or consent to do any of the foregoing, (B) agree or consent to the imposition of any terms, conditions, or limitations on or with respect to any business, assets, properties, or interests of Buyer or its Affiliates (other than the Business or the Purchased Assets, subject to the foregoing clause (i)), including any terms, conditions, or limitations with respect to the ownership or operation thereof, (C) otherwise limit (or agree to limit) the conduct of Buyer or its Affiliates with respect any of their businesses, assets, properties, or interests (other than the Business or the Purchased Assets, subject to the foregoing clause (i)), or (D) agree or consent to any material modification or waiver of the terms of this Agreement (any such action, term, condition, limitation, or requirement described in the foregoing clause (i) or (ii), a “**Burdensome Condition**”).

(e) Notwithstanding the foregoing or anything in this Agreement to the contrary, Seller shall not be required to, and Buyer shall not, in connection with obtaining the Required Regulatory Approvals, consent to (i) the taking of any action or the imposition of any terms, conditions, limitations, or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing or (ii) subject to the terms of the Enabling Legislation, the imposition of any terms, conditions, or limitations on or with respect to Seller, any of its businesses, or any of the benefits to Seller of the transactions. Notwithstanding anything in this Agreement to the contrary, Seller shall not enter into any settlement with a Governmental Authority or intervenor, or file with any Governmental Authority or publish any document, containing any commitments regarding a Required Regulatory Approval without the prior written consent of Buyer.

Section 7.6. Tax Matters.

(a) Responsibility for Taxes. Buyer shall bear sole responsibility for the payment of all Post-Closing Taxes and Seller shall bear sole responsibility for the payment of all Taxes that are Excluded Liabilities (including pursuant to Section 2.5(i)), provided that any Taxes that are payable for a Straddle Tax Period shall be apportioned pursuant to Section 7.6(b).

(b) Proration of Straddle Tax Period Taxes. In the case of any Taxes that are payable for a Straddle Tax Period, the portion of such Taxes that are Pre-Closing Taxes shall (i) in the case of any real and personal property Taxes (or payments in lieu thereof), be deemed to be the amount of such Tax for the entire Taxable Period multiplied by a fraction, the numerator of which is the amount of time from the beginning of the relevant Taxable Period to the Effective Time and the denominator of which is the amount of time in the entire Taxable Period, and (ii) in the case of other Taxes (or payments in lieu thereof) be equal to the portion of such Tax that would have been payable if the relevant Taxable Period ended at the Effective Time. All determinations necessary to give effect to the allocation set forth in this Section 7.6(b) shall be made in a manner consistent with prior practice of Seller, except as otherwise required by applicable Law (excluding any Seller Law). For the avoidance of doubt, unless contemplated by this Agreement or as agreed by the Parties, regardless of the type of Taxes being allocated, any Tax attributable to any action taken during a Straddle Tax Period by Buyer after the Effective Time or by Seller on or before the Effective Time that, in either case, is not in the ordinary course of business will be allocated to and borne solely by the Party taking such action.

(c) Preparation and Filing of Tax Returns.

(i) Buyer shall timely prepare and file, or cause to be timely prepared and filed, all Tax Returns with respect to the Business or the Purchased Assets for any Straddle Tax Period. All such Tax Returns shall be prepared and filed in accordance with past practices and the requirements of this Agreement except to the extent otherwise required by applicable Law (excluding any Seller Law). Buyer shall provide to Seller a copy of any such Tax Return (together with a schedule allocating the Tax for such Straddle Tax Period between Seller and Buyer in accordance with the provisions of Section 7.6(b)) for Seller's review and comment a reasonable period of time prior to the due date for filing such Tax Return. Buyer shall consider Seller's comments in good faith. Seller shall pay to Buyer the Tax due from Seller with respect to such Straddle Tax Period promptly upon demand therefor, but in no event later than five (5) days prior to the due date of payment for such Tax, and Buyer shall thereupon timely pay in the manner required by applicable Law to the relevant Governmental Authorities the Taxes that are shown as due on such Tax Returns.

(ii) Notwithstanding the foregoing, and for the avoidance of doubt, the income Tax Returns of Buyer that include the Business or the Purchased Assets from and after their acquisition by Buyer shall not constitute Straddle Tax Period Tax Returns for purposes of this Agreement, and Seller shall have no right to review or receive copies of such income Tax Returns.

(d) Cooperation. Buyer and Seller agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Business and the Purchased Assets (including access to books and records) as is reasonably necessary for the preparation and filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any Tax authority, and the prosecution or defense of any claim, suit, or proceeding relating to any Tax; provided, however, that neither Buyer nor Seller shall be required to furnish or cause to be furnished any Tax Returns or provide access to any books or records to the extent not related to the Business or the Purchased Assets. Buyer and Seller shall, or shall cause its successor, administrator, or agent to, retain all books and records with respect to Taxes pertaining to the Business and the Purchased Assets for a period of at least seven years following the Closing Date. Seller and Buyer shall cooperate with each other in the conduct of any audit or other proceeding relating to Taxes involving the Business or the Purchased Assets.

(e) Tax Contests. Buyer and Seller agree to cooperate with each other to the extent reasonably required after the Closing Date in connection with any Tax Contests relating to any Pre-Closing Tax Period or Straddle Tax Period. Promptly (but not more than 20 days) after Buyer or Seller receives notice of any such Tax Contest, the party receiving the notice shall notify the other party in writing of the Tax Contest; provided, however, that failure to provide such notice shall not relieve any Party of its obligations pursuant to this Section 7.6 except to the extent such failure materially prejudices such Party. If Seller's Tax liability could reasonably be materially affected by a Tax Contest relating to a Pre-Closing Tax Period or a Straddle Tax Period, Seller shall have the right to participate in such Tax Contest at its expense, and Buyer shall use reasonable efforts to provide Seller with all necessary documents and assistance reasonably requested by Seller to allow Seller to effectively participate in such Tax Contest. Seller shall not be responsible for any Taxes to the extent attributable to any action taken by Buyer with respect to any Tax Contest without Seller's written consent (not to be unreasonably withheld, conditioned, or delayed).

(f) Tax Refunds. Any refund or credit received by Buyer or any Affiliate of Buyer with respect to Pre-Closing Taxes, to the extent Seller would be obligated to pay or indemnify Buyer for such Taxes, whether such refund is received as a payment or as a credit, abatement, or similar offset against future Taxes payable, shall be for the account of Seller. Buyer shall pay to Seller the amount of any such refund or credit (net of any costs or expenses incurred in obtaining such refund or credit and Taxes imposed thereon) within five days after receipt; provided, Buyer shall be entitled to offset any unpaid Taxes that are Excluded Liabilities (including pursuant to Section 2.5(i) and provided that any Taxes that are payable for a Straddle Tax Period shall be apportioned pursuant to Section 7.6(b)) against any such refund or credit.

(g) Post-Closing Covenants. Except as permitted by Section 7.6(c) or Section 7.6(d), or otherwise with the prior written consent of Seller (not to be unreasonably withheld, conditioned or delayed), if the effect on Seller would equal or exceed \$50,000, Buyer shall not, and shall cause its Affiliates not to, (i) amend, refile, revoke, or otherwise modify any Tax Return or Tax election with respect to a Pre-Closing Tax Period, (ii) make any Tax election or change any accounting period or method with retroactive effect to any such Pre-Closing Tax Period, (iii) take any action to extend the applicable statute of limitations with respect to any Tax

Return for a Pre-Closing Tax Period, or (iv) surrender any right to claim a refund of any Pre-Closing Taxes, in each case of the foregoing clauses (i) through (iv), except (A) as required by applicable Law or (B) as contemplated by this Agreement.

Section 7.7. Employees.

(a) Within [•] days following the Execution Date, Seller shall provide Buyer a true and complete list, as of the Execution Date, of all current Business Employees, together with each such Business Employee's (i) title or position; (ii) principal work location; (iii) date of hire; (iv) years of service; (v) current base pay or wages; (vi) current bonus or other incentive-based compensation opportunity; (vii) wage and hour classification (including under the Fair Labor Standards Act); and (viii) leave of absence status (including expected return date, if known) (such list, the "**Business Employee List**"). In the event that any Business Employee ceases to be employed by Seller prior to the Effective Time or any new Business Employee is hired prior to the Effective Time or any of the information on the Business Employee List requires an update or revision (subject to the limitations set forth in this Agreement), Seller by delivery of written notice thereof to Buyer shall promptly (and in no event later than the date necessary for Buyer to comply with the covenants in this Section 7.7 and Section 7.8) update the Business Employee List accordingly. Seller agrees to promptly provide to Buyer all information necessary for Buyer to comply with the covenants in this Section 7.7 and Section 7.8.

(b) Subject to this Section 7.7(b), Buyer or its Affiliates may give Qualifying Offers of employment to the Business Employees to whom Buyer chooses to make such offers. Buyer or its Affiliates shall make such offers at least 30 Business Days prior to the anticipated Closing Date or a later date approved by Seller in writing and shall provide Seller the names of all Business Employees who receive offers within three Business Days following the provision of such offer. As used herein, a "**Qualifying Offer**" means an offer by Buyer or its Affiliates to continue "at-will" employment with the Business commencing at the Closing (i) with an initial primary work location within a twenty-five mile radius from such employee's primary work location immediately prior to the Effective Time and (ii) with terms and conditions consistent with this Section 7.7 and Section 7.8. All Qualifying Offers of employment made by Buyer or its Affiliates pursuant to this Section 7.7(b) will be made in accordance with all applicable Laws (excluding any Seller Laws), will be conditioned on the occurrence of the Closing, and will include such additional information as may be mutually agreed by Seller and Buyer. Each Business Employee who is given a Qualifying Offer and who accepts an offer of employment from Buyer pursuant to this Section 7.7(b) is referred to herein as a "**Transferred Employee**".

(c) Upon the Closing, Seller will terminate the employment of all Transferred Employees with Seller. Seller shall retain and be solely responsible for, and Buyer shall have no obligations whatsoever for, the payment, as soon as reasonably practicable following the Closing and as required by applicable Law, of all final wages, accrued bonus or incentive compensation, severance, termination-related, accrued vacation, accrued sick leave, other accrued paid leave, and similar payments, benefits, and obligations due or payable to such Transferred Employees in connection with such termination. Seller shall be solely responsible for (i) giving Business Employees all necessary WARN Act notices or other notices to employees required of Seller by

Law or contract as a result of their termination by Seller and (ii) any Losses arising from any failure to give any such notices.

Section 7.8. Employee Benefits.

(a) As of the Effective Time and for a period expiring at the end of the first full calendar year following the year in which the Closing occurs (or such Transferred Employee's earlier termination of employment, the "**Continuation Period**"), Buyer will, or shall cause its Affiliates to, (i) provide each Transferred Employee with base pay or wages and with cash bonus opportunities that each are no less than such Transferred Employee's base pay or wages and cash bonus opportunities (excluding any change in control, transaction, retention, or similar payments) as of immediately prior to the Effective Time, and (ii) provide each Transferred Employee with other employee benefits (excluding severance benefits) that are no less favorable in the aggregate than the employee benefits provided by Buyer or its Affiliates to their similarly situated employees as of immediately prior to the Effective Time. The form and terms of any particular employee benefit plan offered by Buyer or its Affiliates in which the Transferred Employees are eligible to participate ("**Buyer Benefit Plan**") shall be as determined by Buyer, subject to its obligations pursuant to this Section 7.8. In addition, if Buyer terminates any Transferred Employee (other than for cause) during the Continuation Period, subject to such Transferred Employee's execution and non-revocation of a release of claims, unless such Transferred Employee is eligible for greater severance benefits pursuant to an Assigned Employment Agreement, Buyer will provide such Transferred Employee with severance benefits pursuant to the terms of Buyer's applicable severance plan or policy (which shall provide such Transferred Employee with severance benefits at least as favorable as those available (A) to Buyer's similarly situated employees, or (B) if more favorable, pursuant to any severance pay plan, program, or policy for which such Transferred Employee was eligible immediately prior to the Effective Time).

(b) Buyer will, or shall cause its applicable Affiliate to, recognize the service of each Transferred Employee recognized by Seller for all benefits purposes, including eligibility for, vesting and accrual of, and determination of the levels of such benefits, but excluding for purposes of benefit accruals under any defined benefit pension plan. However, such service will not be recognized to the extent it would result in duplication of benefits for the same period of service or retroactive application.

(c) Buyer will waive or cause the waiver of any limitation on benefits relating to preexisting conditions, actively-at-work exclusions, and waiting periods for the Transferred Employees under a Buyer Benefit Plan that provides group medical benefits to the same extent that such limitations are waived or otherwise inapplicable to a Transferred Employee under any comparable Benefit Plan as of the Closing Date. All health care expenses incurred in the calendar year that includes the Closing Date by Transferred Employees or any eligible dependent thereof, including any alternate recipient pursuant to qualified medical child support orders, in the portion of the calendar year preceding the Closing Date, that were qualified to be taken into account for purposes of satisfying any deductible or out-of-pocket limit under any Benefit Plan that is a group health care plan will be taken into account for purposes of satisfying any

deductible or out-of-pocket limit under the applicable Buyer Benefit Plan that is a group health care plan for such calendar year.

(d) Effective as of the Closing Date, Buyer shall establish or designate a defined contribution retirement plan eligible for qualification under Section 401(a) of the Code (the “**Buyer 401(a) Plan**”). Each Transferred Employee who satisfies the eligibility requirements of the Buyer 401(a) Plan shall become eligible to participate in the Buyer 401(a) Plan on the date he or she is hired by Buyer and shall be credited with eligibility service and vesting service for all periods of service with Seller or any other entity if so credited with such service under any existing tax-qualified retirement plan in which the Transferred Employees participate that is eligible for qualification under Section 401(a) of the Code (the “**Seller 401(a) Plan**”). Buyer shall cause the Buyer 401(a) Plan to accept direct rollovers of distributions to Transferred Employees from the Seller 401(a) Plans.

(e) Buyer and Seller acknowledge and agree that all provisions contained in Section 7.7 and this Section 7.8 are included for the sole benefit of Buyer and Seller, and that nothing contained herein, express or implied, is intended to (i) confer upon any Person (including any Business Employee or Transferred Employee) any right to continued employment for any period or continued receipt of any specific employee benefit, (ii) constitute an amendment to or any other modification of any employee benefit plan, program, or agreement of any kind, or (iii) create any third party beneficiary or other rights in any other Person, including any current or former Business Employees (or Representatives thereof), any participant in any benefit plan, or any dependent or beneficiary thereof. Nothing in this Agreement shall be interpreted as limiting the power of Seller, Buyer, or any of Buyer’s Affiliates to amend or terminate any particular employee benefit plan, program, agreement, or policy.

Section 7.9. Post-Closing Use of Seller Marks.

(a) Effective as of the Closing Date, Seller hereby grants to Buyer and its Affiliates (collectively, the “**Licensees**”) for one (1) year after the Closing Date (the “**Transition Period**”) a worldwide, royalty-free, non-transferable, non-exclusive, irrevocable license to use the Seller Marks in connection with the continued operation of the Business in a manner consistent with the Seller’s use of the Seller Marks in the Business prior to the Closing Date, including (i) in connection with the generation, transmission, distribution, or sale of electrical energy or associated products (whether for wholesale service or retail service) and promotion, advertising, and marketing thereof, and (ii) on existing signage, business cards, packaging, letterhead, invoice forms, websites, social media accounts, advertising, marketing and promotional materials, machinery and equipment, inventory, and other documents and materials containing or bearing any Seller Mark. Each Licensee may sublicense the rights granted in this Section 7.9 to its authorized distributors, vendors, subcontractors, and resellers acting on behalf of the Licensee in connection with the continued operation of the Business during the Transition Period. To the extent that any domain names or social media handles incorporate the Seller Marks, Seller shall maintain the registrations for such domain names and social media handles in full force and effect for the duration of the Transition Period unless directed otherwise by Buyer, and shall not take any actions to close or otherwise terminate any of the social media accounts.

(b) After the Transition Period, Buyer shall cease using Seller Marks, including removing Seller Marks from the Purchased Assets or any other properties or assets of Buyer (or its Affiliates) relating to the Business, and thereafter Buyer shall not, and shall cause its Affiliates not to, use Seller Marks or any Trademarks belonging to Seller after the Transition Period.¹¹ Buyer acknowledges that it and its Affiliates have no rights whatsoever to use Seller Marks or such Trademarks, except for the limited transitional use of Seller Marks contemplated by the foregoing sentences; provided that Licensees may at all times after the Closing Date (i) retain and use, for Licensees' internal business purposes, records and other historical or archived documents containing or referencing the Seller Marks; (ii) use the Seller Marks to the extent required by or permitted as fair use or otherwise under applicable Law, including uses that would not cause confusion as to the origin or sponsorship of a good or service; and (iii) refer on their websites and in their advertising, marketing, and promotional materials to the historical relationship between the Seller and the Business. Buyer agrees that (A) neither Buyer nor any of its Affiliates shall be deemed an agent, representative, or joint venture partner of Seller; (B) Seller shall retain sole and exclusive ownership of Seller Marks; and (C) Buyer and its Affiliates shall not knowingly take any action in respect of Seller Marks that would adversely affect Seller, or the interest of Seller in the Seller Marks.

(c) From and after the Closing Date, Seller shall not use (or permit any Person, other than Buyer and its Affiliates, to use) the Seller Marks (including the name "Santee Cooper") in connection with the generation, transmission, distribution, or sale of electrical energy or associated products (whether for wholesale service or retail service) or otherwise in connection with the electricity, energy, or water business.

Section 7.10. Public Statements. No Party hereto shall issue, or permit any of its Affiliates or Representatives to issue, any press release or otherwise make any public statements or announcements regarding this Agreement or the transactions contemplated hereby without the prior written consent (which consent will not be unreasonably withheld, conditioned, or delayed) of the other Party, except as otherwise determined to be necessary or appropriate to comply with the "public records" requirements under Section 30-4-10 *et seq.* of the Code of Laws of South Carolina 1976 (as amended), other applicable Law (other than any Seller Law), any rules or regulations of any supervisory, regulatory, or other Governmental Authority having jurisdiction over Seller, Buyer, or any of Buyer's Affiliates, or (in the case of Buyer and its Affiliates) the applicable rules of any stock exchange or quotation system, in which case the Party required to issue such press release or public announcement shall use reasonable efforts to provide the other Party a reasonable opportunity to comment on such press release or public announcement in advance of such publication. The Parties hereto will consult with each other concerning the means by which the employees, customers, and suppliers of the Business and others having dealings with the Business will be informed of the transactions contemplated by this Agreement. Notwithstanding the foregoing, (i) nothing contained in this Agreement shall limit either Party's (or Buyer's Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein in any session of the General Assembly of the State of South

¹¹ **NEE Note to Draft:** As discussed in footnote 9 above, Buyer would be pleased to continue to incorporate "Santee Cooper" into the utility's name going forward, as reflected in the bid cover letter. Should Seller prefer that, appropriate changes would need to be made to this provision (and/or the definition of Seller Marks).

Carolina or any committee thereof, on earnings calls or in similar discussions; and (ii) Buyer shall not be required to consult with or provide an opportunity to review and comment to Seller in connection with any prospectus, “road show” materials, press release, or other written materials in connection with financing activities contemplated in Section 7.13 so long as such statements are consistent in substance with previous written press releases, written public disclosures, or other written statements made by the Buyer and Seller in compliance with this Section 7.10.

Section 7.11. Collections; Remittances. From and after the Effective Time, (a) Seller shall promptly remit to Buyer any amounts that are collected or received by Seller that constitute, or otherwise relate to, Purchased Assets or the Business to which Buyer is entitled pursuant to the terms of this Agreement, and (b) Buyer shall, and shall cause its Affiliates to, promptly remit to Seller any amounts that are collected or received by Buyer or any such Affiliate that relate to Excluded Assets to which Seller is entitled pursuant to the terms of this Agreement.

Section 7.12. Replacement of Guarantees or Other Credit Support. Buyer acknowledges and agrees that, except as otherwise set forth in this Section 7.12, Seller shall not have any obligations to maintain any guarantee or other form of credit support to secure performance or payment under any Purchased Contracts after the Closing. Buyer and Seller shall each use commercially reasonable efforts to arrange for, prior to the Closing and to be effective upon the Closing, a full and unconditional release of all of the obligations of Seller under each of the agreements and instruments set forth on Schedule 7.12 (the “**Guarantees**”) by Buyer providing the counterparties thereto and beneficiaries thereof with a substitute form of security. In the event that any such counterparty or beneficiary does not accept a substitute form of security prior to the Closing, each of Buyer and Seller shall continue to use commercially reasonable efforts, and each shall continue to cooperate with the other, to obtain a substitute form of security and cause to be delivered to Seller as promptly as reasonably practicable after the Closing a full and unconditional release of all of the obligations of Seller under any of the Guarantees that remain outstanding (the “**Continuing Guarantees**”). Buyer acknowledges that the obligations of Seller under the Continuing Guarantees arising after the Closing are for the account of Buyer and any Losses suffered, paid, or incurred by Seller in respect thereof shall be paid or reimbursed by Buyer, as applicable. Buyer shall not, and shall not permit any of its Affiliates to: (a) renew or extend the term of, (b) increase the obligations under, or (c) transfer to a third party any Purchased Contracts or other obligation to the extent that a Continuing Guarantee would remain in effect thereafter. Notwithstanding anything to the contrary herein, neither Buyer nor Seller shall have any obligation to pay money, grant any accommodation (financial or otherwise) or commence or participate in any Action in order to secure the full and unconditional release of obligations of Seller under any Guarantee pursuant to this Section 7.12.

Section 7.13. Financing Covenant.

(a) Prior to the earlier of the Closing Date and the Termination Date, Buyer shall use its reasonable best efforts to arrange and, on or prior to the Closing Date, obtain any debt financing necessary for Buyer to consummate the transactions contemplated by this Agreement.

(b) Seller shall use reasonable best efforts to provide, at Buyer's sole cost and expense, to Buyer such cooperation as may be reasonably requested by Buyer in connection with the arrangement of any financing to be consummated with the respect to the transactions contemplated hereby (any such financing, "**Financing**"), including: (i) participating in a reasonable number of meetings and presentations and reasonably cooperating with the marketing efforts of Buyer and the Financing Sources in connection with such Financing; (ii) assisting with the preparation of customary materials for rating agency presentations, information memoranda and similar documents required in connection with such Financing; (iii) cooperating with Buyer to satisfy the conditions precedent to such Financing to the extent within the control of the Seller; (iv) furnishing Buyer and the Financing Sources any information reasonably requested by Buyer or the Financing Sources in connection with such Financing; and (v) reasonably facilitating the pledge of collateral and other matters ancillary to such Financing as may be reasonably requested by Buyer in connection with such Financing. In addition, following the Execution Date (and, if the Securitization is not consummated prior to the Closing, after the Closing), Seller agrees to use reasonable best efforts to provide, at Buyer's sole cost and expense, to Buyer such cooperation as may be reasonably requested by Buyer in connection with the Securitization, including (A) providing any testimony or other material reasonably required to secure the Required CEU Financing Order and the Required R&M Financing Order, and (B) providing any information reasonably required for the preparation of rating agency or investor presentations, information memoranda or prospectuses, or other documents in connection with the Securitization. Notwithstanding the foregoing, (I) nothing shall require such cooperation as described in this Section 7.13(b) to the extent it would, (x) in Seller's reasonable judgment, unreasonably interfere with the business or operations of Seller, or (y) result in a waiver by Seller of the attorney-client privilege or the protection of attorney work-product (provided that Seller shall use its reasonable best efforts to provide such cooperation (or as much cooperation as possible) in a manner that does not result in a loss of such privilege or protection, and Seller shall, to extent possible without loss of such privilege or protection, inform Buyer as to the general nature of any material withheld pursuant to this clause (y)), and (II) nothing in this Section 7.13(b) shall require Seller to take any action or execute any document (including any corporate action) prior to the Closing that is not contingent upon the Closing. All non-public or other confidential information provided by Seller or Buyer or any of their respective Representatives pursuant to this Section 7.13(b) shall be kept confidential in accordance with the Confidentiality Agreement (it being understood and agreed that Buyer will be permitted to disclose such information to any Financing Source or prospective Financing Source (and, in each case, to their respective counsel and auditors), or to any ratings agency, underwriter, investor, or prospective underwriter or investor with respect to the Securitization (and, in each case, to their respective counsel and auditors), so long as such information is furnished by Buyer subject to customary confidentiality undertakings in connection with Financing or the Securitization). Seller shall not be required to bear any out-of-pocket cost or expense, pay any commitment or other similar fee, or make any other payment or incur any other out-of-pocket liability prior to the Closing or provide or agree to provide any indemnity in connection with any Financing, the Securitization, or any of the foregoing matters described in this Section 7.13(b). Buyer shall reimburse Seller for its reasonable and documented out-of-pocket fees and expenses incurred pursuant to this Section 7.13(b) and shall indemnify and hold harmless Seller and its Representatives from and against any and all Losses incurred or suffered by them in connection with any actions taken pursuant to this Section 7.13(b), except with respect to (1) historical

information furnished in writing by Seller, including financial statements, or (2) any fraud, willful misconduct, gross negligence, or intentional misrepresentation of Seller. Notwithstanding anything to the contrary, the condition set forth in Section 8.2(a), as it applies to Seller's obligations under this Section 7.13(b), shall be deemed satisfied unless Seller materially breached its obligations under this Section 7.13(b) and such breach has caused Financing or the Securitization to be unavailable.

(c) Seller hereby consents to the use of its name and logos in connection with Financing and the Securitization as is reasonably appropriate and customary for such purpose; provided that such name and logos are not used in a manner that is intended to or reasonably likely to harm, disparage, or otherwise adversely affect Seller or the reputation or goodwill of Seller.

(d) Buyer acknowledges and agrees that its obligation to consummate the transactions contemplated by this Agreement and to effect the Closing is not conditioned upon the availability of any Financing or the consummation of the Securitization.

Section 7.14. Casualty Losses; Takings. If, prior to Closing, any of the Purchased Assets are damaged by fire or any other casualty event (each such event, a "**Casualty Loss**"), or are taken by a Governmental Authority by exercise of the power of eminent domain or as otherwise provided by applicable Law (each, a "**Taking**"), then the following provisions of this Section 7.14 shall apply:

(a) If the aggregate amount of (i) the reasonably expected costs to restore, repair, or replace (in accordance with Prudent Utility Practices) the Purchased Assets subject to such Casualty Loss to a condition in all material respects the same as its or their condition immediately prior to such Casualty Loss, plus the amount of any lost profits reasonably expected to accrue after Closing as a direct result of such Casualty Loss (such amount pursuant to this clause (i) to be determined by an independent third party appraiser mutually selected by the Parties (collectively, "**Restoration Costs**")) plus (ii) with respect to each Taking, the value of the Purchased Assets subject to such Taking less any condemnation award, plus the amount of any lost profits reasonably expected to accrue after Closing as a direct result of such Taking (provided, that the entire amount of any such condemnation award is made available to Buyer) (such amount pursuant to this clause (ii) to be determined by an independent third party appraiser mutually selected by the Parties (collectively, the "**Condemnation Value**")), in the case of each of clauses (i) and (ii), net of and after giving effect to (A) any insurance, condemnation award, or other third party proceeds reasonably expected to be available to Seller for such event, and (B) any tax benefits related thereto, is less than or equal to \$25,000,000, there shall be no effect on the transactions contemplated hereby.

(b) Upon the occurrence of any one or more Casualty Losses and/or Takings involving aggregate Restoration Costs and Condemnation Value in excess of \$25,000,000 (a "**Major Loss**"), in the case of a Major Loss relating solely to one or more Casualty Losses, Seller shall promptly notify Buyer of such occurrence, consult with Buyer regarding the assessment of such Major Loss, and allow Buyer to participate in meetings, communications, and inspections pertaining thereto. Seller may elect to restore, repair, or replace the assets or

properties relating to a Major Loss prior to Closing to a condition in all material respects the same as (or better than) their condition immediately prior to such Casualty Loss, with such election to be delivered by written notice to Buyer as soon as practicable following the occurrence of the Major Loss (but in no event later than 15 days after the occurrence of such Major Loss), but such election shall be subject to the approval of Buyer (not to be unreasonably withheld). If Seller elects to so restore, repair, or replace the assets or properties relating to a Major Loss (and Buyer so consents), Seller will, at Seller's sole cost and expense, complete or cause to be completed, prior to the Closing and in accordance with Prudent Utility Practices, the repair, replacement, or restoration of the damaged assets or property to a condition in all material respects the same as (or better than) their condition immediately prior to such Casualty Loss. Seller shall keep Buyer reasonably informed with respect to such restoration, repair, or replacement, including allowing Buyer to participate in meetings, communications, and inspections pertaining thereto, in order to enable Buyer to evaluate the quality and sufficiency thereof. If Seller elects not to cause the restoration, repair, or replacement of the property or assets affected by a Major Loss, if Buyer does not consent to Seller's election, or if such Major Loss is the result in whole or in part of one or more Takings or is otherwise not capable of being restored, repaired, or replaced, the provisions of Section 7.14(c) will apply.

(c) In the event that Seller elects not to cause the restoration, repair, or replacement of the assets or properties relating to a Major Loss, or Buyer does not consent to Seller's election, in accordance with Section 7.14(b), or in the event that Seller, having elected to cause repair, replacement, or restoration of the Major Loss, fails to cause its completion within the period of time agreed upon by the Parties pursuant to Section 7.14(b) (subject to extension for up to 30 days for causes beyond Seller's control that cannot be overcome by the exercise of diligent efforts), or in the event that a Major Loss is the result in whole or in part of one or more Takings or is otherwise not capable of being restored, repaired, or replaced, then the Purchase Price shall be adjusted downward by the aggregate Restoration Cost and Condemnation Value without netting any insurance, condemnation award, or other third party proceeds reasonably expected to be available to Seller for such event or tax benefits relating thereto. To assist Buyer in its evaluation of any and all Casualty Losses, Seller shall provide Buyer such access to the properties and assets and such information as Buyer may reasonably request in connection therewith.

Section 7.15. Migration Plan. Seller shall use commercially reasonable efforts to (a) facilitate an orderly and seamless transition from Seller to Buyer of the information systems, computer applications, and processing of data to enable Buyer to commence conducting the Business on the Closing Date, and (b) assist Buyer with all other migration related activities that will be performed with respect to the planning and preparation for and implementation of an orderly conversion and transition process for the Business at Closing, including participating in transition planning and integration team meetings, implementing system changes in test environment in anticipation of Closing, and providing required access to facilities, data, and reports to enable such migration and readiness and providing access to other resources of Seller (including personnel) as Buyer may reasonably request. In furtherance of and without limiting the foregoing, to the fullest extent permitted by applicable Law (but subject to Section 7.2(a)), between the Execution Date and the Closing Date, Seller shall promptly furnish all such information, reports, and data with respect to the Purchased Assets and the Business as Buyer or

Buyer's Representatives may reasonably request to facilitate successful conversion and transition of the Business to Buyer on the Closing Date.

Section 7.16. Decommissioning Funds.

(a) At Closing, Seller shall cause all of the assets of the Decommissioning Funds to be transferred to Buyer.

(b) Upon Buyer's request and at Buyer's cost, Seller shall reasonably cooperate with Buyer to obtain prior to the Closing Date, a ruling issued by the IRS to the effect that the trust established by Buyer into which the assets of the Decommissioning Funds are to be transferred at Closing will be treated as a "Nuclear Decommissioning Reserve Fund" within the meaning of Section 468A of the Code and as a "nuclear decommissioning fund" within the meaning of Treas. Reg. Section 1.468A-1(b)(3).

Section 7.17. Termination of Central Coordination Agreement. At the later of the Closing or the Commencement Date (as defined in the Central PPA), the Central Coordination Agreement shall be terminated by Seller pursuant to, and in accordance with the terms of, the CIA Termination Agreement; provided, however, Seller shall preserve (and cause to survive such termination of the Central Coordination Agreement) and shall not terminate, and Seller shall transfer to Buyer in accordance with Section 2.1 and Section 2.2(a)(vii), any and all rights of Seller to acquire the Legacy Leased Properties that arise under the Central Coordination Agreement.

Section 7.18. Data Room. Within ten Business Days after the Closing, Seller shall deliver to Buyer on a flash drive (or by other electronic means reasonably acceptable to Buyer) an electronic copy of the documents and information contained in the virtual data room. Seller shall maintain the virtual data room and provide Buyer access thereto to the extent consistent with applicable Law until such delivery has been made.

Section 7.19. Insurance. From and after the Effective Time, Seller agrees to cooperate with Buyer, as reasonably requested by Buyer, in connection with Buyer's efforts to submit claims for occurrences up to the Effective Time under the insurance policies maintained by or on behalf of Seller prior to the Effective Time, including those policies listed on Schedule 5.12 (or in the update to Schedule 5.12 delivered pursuant to Section 4.3(t)); provided, that Buyer shall be fully responsible for any deductibles and shall timely reimburse Seller for any reasonable expenses incurred by such cooperation; provided, however, that Buyer shall not be permitted to submit claims for occurrences up to the Effective Time under any such insurance policies with respect to damages that have been repaired by the Seller prior to the Effective Time.

Section 7.20. Supplements to Seller Disclosure Schedules. From time to time prior to the Closing, Seller shall promptly update the Seller Disclosure Schedules with respect to any matters that, to Seller's Knowledge, have been discovered or occur subsequent to the Execution Date that would have been required to be set forth on the Seller Disclosure Schedules (each, a "**Schedule Update**"); provided, however, that such Schedule Updates shall not be deemed to have cured any breach of representation or warranty made in this Agreement or in any certificate

delivered hereunder for any purpose, including for purposes of determining whether the condition in Section 8.2(b) has been satisfied. Nothing in this Agreement, including this Section 7.20, shall imply that Seller is making any representation or warranty as of any date other than the Execution Date and the Closing Date.

Section 7.21. Title Commitments; Surveys.

(a) Prior to Closing, Buyer shall have the right to order, at its sole cost and expense, a title commitment for any Owned Real Property (each, a “**Commitment**”) from Buyer’s Title Insurance Company sufficient in form and substance to allow Buyer to obtain, at Buyer’s sole cost and expense, an owner’s title insurance policy (each, a “**Title Insurance Policy**”) insuring the fee simple interest in such Owned Real Property. Seller agrees to deliver any information as may be required by Buyer’s Title Insurance Company under the requirements section of each Commitment or otherwise in connection with the issuance of the final Title Insurance Policies. Seller agrees to provide an affidavit of title or such other information as the Buyer’s Title Insurance Company may reasonably require in order for Buyer’s Title Insurance Company to delete the standard exceptions and to insure over the “gap” (*i.e.*, the period of time between the effective date of Buyer’s Title Insurance Company’s last bringdown of title to such Owned Real Property and the Closing Date) and to use commercially reasonable efforts to cause Buyer’s Title Insurance Company to delete material and adverse encumbrances from the final Title Insurance Policies.

(b) In addition, prior to Closing, Buyer shall have the right to order a survey of any Owned Real Property (each, a “**Survey**”), at Buyer’s sole cost and expense. Seller agrees to deliver to Buyer any information required to obtain any such Survey and provide written objections as to any material and adverse survey objections. Seller shall use commercially reasonable efforts to cause the removal of said survey objections.

Section 7.22. Pending Interconnection Request. Between the Execution Date and the Closing Date, Seller shall at all times utilize commercially reasonable efforts to facilitate the interconnection of generating projects proposed by Buyer’s Affiliates in a manner consistent with Seller’s open access transmission tariff. Without limiting the foregoing, Seller shall, with respect to the interconnection request submitted to Seller by Buyer’s Affiliate NextEra Energy Resources, LLC on November 21, 2017 for the interconnection of a combined cycle gas turbine generating facility at Seller’s 230 kV Summer Substation, in each case to the extent such actions have not already been taken prior to the Execution Date, (a) within five (5) Business Days of the Execution Date, assign a queue position based on the November 21, 2017 date the interconnection request was originally submitted to Seller; (b) within ten (10) Business Days of the Execution Date, conduct a scoping meeting wherein Seller and Buyer will mutually agree to a revised point of interconnection consisting of a new substation approximately one (1) mile outside of Seller’s 230 kV Summer Substation that ties into three of Seller’s 230 kV transmission lines that exit the Summer Substation; and (c) comply with the requirements of Seller’s open access transmission tariff for servicing the interconnection request, including the timely completion of a system impact study that utilizes a queue position reflective of the November 21, 2017 date that Buyer’s Affiliate submitted the interconnection request. To the extent Seller believes any such actions are inconsistent with or in violation of Seller’s open access

transmission tariff, Seller shall use commercially reasonable efforts to support Buyer in a proceeding initiated at FERC that seeks an expedited determination concerning the validity of the November 21, 2017 date of such interconnection request and associated queue position, and Seller shall, if requested by Buyer, file timely comments in support of Buyer in any such proceeding initiated at FERC.

ARTICLE VIII

CONDITIONS TO CLOSING

Section 8.1. Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or joint waiver by the Parties at or prior to the Closing Date of the following conditions:

(a) No Injunction or Prohibition; No Litigation. Except for any State-Initiated Legal Restraints (which are the subject of Section 8.2(i) below) or any of the matters which are the subject of Section 8.2(h) or Section 8.2(p) below, no Law or Order issued by any court of competent jurisdiction or other Governmental Authority or other legal restraint or prohibition preliminarily, temporarily, or permanently restraining, enjoining, or otherwise preventing the consummation of the transactions contemplated by this Agreement or any Ancillary Agreement shall be in effect. Except for any State-Initiated Litigation (which is the subject of Section 8.2(i) below), there shall not be pending any Action by any Governmental Authority, nor any Action with a reasonable likelihood of success by any other Person, that would, if adversely determined, enjoin, restrain, condition, make illegal, or otherwise prohibit the transactions contemplated by this Agreement or any Ancillary Agreement.

(b) Required Regulatory Approvals. All Required Regulatory Approvals (other than the Required CEU Financing Order and Required R&M Financing Order, which are the subject of Section 8.2(j)) shall have been obtained.

(c) Debt Satisfaction and Release. The satisfaction and discharge of all of the Debt Instruments, and all covenants, agreements, and obligations of Seller in respect thereof, shall have been effected at the Closing upon Buyer's deposit or payment of the Debt Release Consideration in accordance with Section 3.2 and the delivery of the Verification Reports, opinions of counsel to Seller, and other deliverables described in Section 3.2, and all Encumbrances on the Purchased Assets or the revenues derived therefrom that serve as security with respect to any of the Debt Instruments will be released as a result of such deposit or payment of the Debt Release Consideration and delivery of such deliverables.

(d) CIA Termination Agreement. The CIA Termination Agreement will be in full force and effect. Unless Buyer and Central have mutually agreed that the Commencement Date (as defined in the Central PPA) will occur on a date that is later than the Closing Date, the Central Coordination Agreement shall have terminated in accordance with the CIA Termination Agreement on the Closing Date.

Section 8.2. Conditions to Buyer's Closing Obligations. The obligation of Buyer to effect the transactions contemplated hereby is subject to the fulfillment or waiver by Buyer at or prior to the Closing Date of the following additional conditions:

(a) Covenants. Seller shall have performed and complied with in all material respects the covenants and agreements contained in this Agreement which are required to be performed and complied with by Seller on or prior to the Closing Date.

(b) Representations and Warranties. (i) The representations and warranties of Seller set forth in Section 5.1, Section 5.2, Section 5.3(a), Section 5.7(b), and Section 5.21 shall be true and correct in all respects both when made and as of the Closing Date (except to the extent that any such representation or warranty speaks as of a particular date, in which case such representation and warranty will be true and correct only as of such date) and (ii) all other representations and warranties of Seller set forth in Article V of this Agreement shall be true and correct (without giving effect to any limitation as to materiality or any Material Adverse Effect (or material adverse effect) qualifier set forth therein), both when made and as of the Closing Date (except to the extent that any such representation or warranty speaks as of a particular date, in which case such representation and warranty will be true and correct only as of such date), except, in the case of this clause (ii) only, for any failure or failures of such representations and warranties to be true and correct that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; provided, however, that, for purposes of determining the accuracy of any of the representations and warranties referred to above, (A) the Seller Disclosure Schedules shall have no effect and shall be deemed to be replaced in their entirety by the ATT Disclosure Schedules, and any amendment or modification to the ATT Disclosure Schedules made or purported to have been made after the delivery of the ATT Disclosure Schedules shall be disregarded, (B) in furtherance of the foregoing, any reference in any such representation or warranty to any Seller Disclosure Schedule shall be deemed to refer only to the corresponding ATT Disclosure Schedule (disregarding any amendment or modification to the ATT Disclosure Schedules made or purported to have been made after the delivery of the ATT Disclosure Schedules), and (C) in the case of the representations and warranties set forth in Section 5.6, nothing in the 2019 Financial Statements, the ATT Disclosure Schedules, the Seller Disclosure Schedules, or any amendments or modifications thereto shall qualify or be deemed to qualify, in any respect, any of the representations or warranties in Section 5.6 as such representations or warranties relate to the 2019 Financial Statements.

(c) Officer Certificate. Buyer shall have received from Seller a certificate, signed on its behalf by an officer of Seller and dated the Closing Date, to the effect that the condition set forth in Section 8.2(a) and Section 8.2(b) have been satisfied.

(d) Seller Consents. All Seller Consents shall have been received and shall be in form and substance reasonably satisfactory to Buyer.

(e) Deliveries. Buyer shall have received an executed copy of each of the documents listed in Section 4.3.

(f) Title Matters. Buyer shall have received Title Insurance Policies or “marked up” Commitments from Buyer’s Title Insurance Company and Surveys covering the Designated Material Property effective as of the Closing Date and such Commitments and Surveys shall contain (i) only such exceptions and non-material and adverse encumbrances as are reasonably satisfactory to Buyer and (ii) endorsements that are reasonably satisfactory to Buyer.

(g) Enabling Legislation. The Enabling Legislation shall remain in full force and effect, and (i) except as approved in writing by Buyer, no Law or Order shall have been proposed, enacted, adopted, or issued (other than any bill or other proposed Law or Order that has been permanently withdrawn and has no force or effect) by any Governmental Authority (or by either house of the General Assembly or by any committee of the General Assembly or of either house thereof) that, if enacted, adopted, or issued, would repeal, abrogate, or annul, or in any way amend, modify, or alter, the Enabling Legislation (or any provision thereof) or the effects thereof, and (ii) there shall not be pending any Action by any Governmental Authority (or by either house of the General Assembly or by any committee of the General Assembly or of either house thereof), nor any Action with a reasonable likelihood of success by any other Person, that would, if adversely determined, render invalid, ineffective, or unenforceable, or otherwise alter the force or effect of, the Enabling Legislation or any provision thereof (including any Action that challenges the constitutionality, legality, validity, effectiveness, or enforceability of the Enabling Legislation or any provision thereof).

(h) Exemption Agreements. Each of the Exemption Agreements shall remain in full force and effect. No Law or Order issued by any court of competent jurisdiction or other Governmental Authority or other legal restraint or prohibition preliminarily, temporarily, or permanently restraining, enjoining, or otherwise preventing the consummation of the transactions contemplated by the Exemption Agreements shall be in effect. There shall not be pending any Action by any Governmental Authority, nor any Action with a reasonable likelihood of success by any other Person, that would, if adversely determined, enjoin, restrain, condition, make illegal, or otherwise prohibit the transactions contemplated by the Exemption Agreements.

(i) No State-Initiated Legal Restraint; No State-Initiated Litigation. No State-Initiated Legal Restraint shall be in effect, and there shall not be any State-Initiated Litigation pending.

(j) PSCSC Approvals. The PSCSC shall have issued all of the PSCSC Approvals, which PSCSC Approvals shall be final, binding, and non-appealable and (i) in the case of the Required CEU Financing Order and the Required R&M Financing Order, shall be substantially in the forms attached hereto as Exhibit R and Exhibit S, respectively, and otherwise in form and substance reasonably satisfactory to Buyer, and (ii) in the case of all other PSCSC Approvals, shall be consistent with the Enabling Legislation and the terms of this Agreement and shall otherwise be in form and substance reasonably satisfactory to Buyer.

(k) No Burdensome Condition. No Governmental Authority of competent jurisdiction and authority shall have issued an Order in connection with any Required Regulatory Approval that remains in effect and imposes a Burdensome Condition on Buyer.

(l) FERC License Transfer Approval. The FERC authorizations required to consummate the transfer of the FERC License from Seller to Buyer in accordance with this Agreement shall have been obtained.

(m) Estimated Aggregate Adjustment Amount. The Estimated Aggregate Adjustment Amount shall be less than \$100,000,000.

(n) Encumbrances from Other Indebtedness. Any Indebtedness of Seller that is not included in the Debt Instruments and remains outstanding at the Effective Time does not result in, create, or otherwise cause to exist any Encumbrances on the Purchased Assets or the revenues derived therefrom.¹²

(o) Compliance with Section 7.2(g). Seller shall have complied with its obligations under Section 7.2(g) (or, to the extent Seller has failed to comply with such obligations, Seller shall have remedied such failure to Buyer's reasonable satisfaction in accordance with Section 7.2(g)), and the access granted by Seller to Buyer pursuant to Section 7.2(g) shall be sufficient to permit Buyer to complete all financial statement testing and other assessments, evaluations, and confirmations contemplated thereby, as determined by Buyer in its sole discretion.

(p) Central Power Purchase Agreement. The Central PPA will remain in full force and effect, and all conditions precedent to the obligations of Buyer Subsidiary and Central to commence purchases and sales of electricity and capacity under the Central PPA, as set forth in Article III of the Central PPA (but excluding any condition that will be satisfied in full by virtue of the occurrence of Closing), shall have been satisfied (or waived) on or before the Closing Date. No Law or Order issued by any court of competent jurisdiction or other Governmental Authority or other legal restraint or prohibition preliminarily, temporarily, or permanently restraining, enjoining, or otherwise preventing the consummation of the transactions contemplated by the Central PPA shall be in effect. There shall not be pending any Action by any Governmental Authority (or by either house of the General Assembly or by any committee of the General Assembly or of either house thereof), nor any Action with a reasonable likelihood of success by any other Person, that would, if adversely determined, enjoin, restrain, condition, make illegal, or otherwise prohibit the transactions contemplated by the Central PPA.

Section 8.3. Conditions to Seller's Closing Obligations. The obligation of Seller to effect the transactions contemplated hereby is subject to the fulfillment or waiver by Seller at or prior to the Closing Date of the following additional conditions:

(a) Covenants. Buyer shall have performed and complied with in all material respects the covenants and agreements contained in this Agreement which are required to be performed and complied with by Buyer on or prior to the Closing Date.

(b) Representations and Warranties. The representations and warranties of Buyer set forth in Article VI shall be true and correct (without giving effect to any limitation as

¹² **Note to Draft:** Parties to discuss excluding current trade payables that may otherwise constitute Indebtedness.

to materiality or material adverse effect qualifier set forth therein) as of the Execution Date and as of the Closing Date as though made at and as of the Effective Time (except to the extent that any such representation or warranty speaks as of a particular date, in which case such representation and warranty will be true and correct only as of such date), except for any failure or failures of such representations and warranties to be true and correct that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on Buyer's ability to perform its obligations under this Agreement or the Ancillary Agreements or Buyer's ability to consummate the transactions contemplated hereby or thereby on a timely basis.

(c) Officer Certificate. Seller shall have received a certificate from Buyer, signed on its behalf by an officer of Buyer and dated the Closing Date, to the effect that the conditions set forth in Section 8.3(a) and Section 8.3(b) have been satisfied.

(d) Closing Date Payment. Seller shall have received the Closing Date Payment in accordance with Section 4.2(a).

(e) Escrow Deposit. Buyer shall have deposited or caused to be deposited the Purchase Price Escrow Amount with the Escrow Agent in accordance with Section 4.2(b) and Section 3.5.

(f) Closing Fixed Payment Amount. Buyer shall have paid or caused to be paid the Closing Fixed Payment Amount to Seller in accordance with Section 4.2(a) (as a component of the Closing Date Payment delivered to Seller in accordance with Section 4.2(a)).

(g) Deliveries. Seller shall have received an executed copy of each of the documents listed in Section 4.4.

ARTICLE IX

SURVIVAL OF REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 9.1. Survival of Representations, Warranties, and Covenants. None of the representations, warranties, covenants, or agreements in this Agreement or in any instrument delivered pursuant to this Agreement, including the Transfer Instruments (but excluding the other Ancillary Agreements), shall survive the Closing, other than (a) the covenants and agreements set forth in Section 7.1, which shall survive for a period of six months after the Closing Date, and (b) those covenants or agreements of the Parties that by their terms apply, or are to be performed in whole or in part, after the Closing Date, including the Ancillary Agreements (the covenants and agreements described in the foregoing clauses (a) and (b), the "**Surviving Obligations**"). For purposes of clarification, from and after the Closing, except for the Surviving Obligations, Seller shall have no liability to Buyer arising from this Agreement, the instruments delivered pursuant to this Agreement, including the Ancillary Agreements, the transactions contemplated hereby or thereby, the Business, or the operation of Purchased Assets (it being understood that nothing herein shall, or shall be deemed to, modify Seller's responsibility with respect to the Excluded Liabilities and the Excluded Assets). Effective as of the Closing, Buyer waives all claims for contribution or other rights of recovery arising out of or

relating to any Environmental Law against Seller. Notwithstanding anything in this Article IX or any other provision of this Agreement to the contrary, nothing in this Agreement shall limit or eliminate the liability of a Party with respect to Fraud by such Party.

ARTICLE X

TERMINATION AND OTHER REMEDIES

Section 10.1. Termination.

(a) This Agreement may be terminated at any time prior to the Closing Date by mutual written consent of Seller and Buyer.

(b) This Agreement may be terminated by Seller or Buyer if the Closing has not occurred on or before 12 months following the Execution Date (the “**Termination Date**”); provided, that the right to terminate this Agreement under this Section 10.1(b) will not be available to a Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before the Termination Date. Notwithstanding the foregoing, if 12 months following the Execution Date, any of the conditions to the Closing set forth in Section 8.1(a) (unless the applicable Order or legal restraint is final and non-appealable), Section 8.1(b), Section 8.2(j), or Section 8.2(l) have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Termination Date will be the day which is 18 months following the Execution Date.

(c) This Agreement may be terminated by either Seller or Buyer if (i) any Required Regulatory Approval has been denied by the applicable Governmental Authority, and all appeals of such denial have been taken and have been unsuccessful, or (ii) one or more courts of competent jurisdiction in the United States or any State has issued an Order permanently restraining, enjoining, or otherwise prohibiting the Closing, and such Order has become final and non-appealable; provided, however, that (A) the right to terminate this Agreement under this Section 10.1(c) shall not be available to any Party if the denial or Order described in (i) or (ii) hereof is the result of a failure of such Party to have complied with its obligations under this Agreement, including Section 7.5, and (B) the right to terminate this Agreement under this Section 10.1(c) shall not be available to Seller (x) based upon or as a result of the denial of any of the PSCSC Approvals, or (y) if the denial or Order described in (i) or (ii) hereof constitutes, or is the result of, a State-Initiated Legal Restraint.

(d) This Agreement may be terminated by Buyer by giving written notice to Seller if (i) any State-Initiated Legal Restraint is in effect or any State-Initiated Litigation is commenced, in each case, that would cause the condition set forth in Section 8.2(i) not to be satisfied, or (ii) there has been a breach by Seller of any representation, warranty, covenant, or other agreement made by it in this Agreement which would prevent the satisfaction of any condition to the obligations of Buyer to effect the Closing and such breach has not been cured by Seller or waived by Buyer within 20 Business Days after receipt by Seller of a separate notice of any such breach from Buyer (or, if earlier, by the Termination Date); provided, that Buyer shall

not be permitted to terminate this Agreement pursuant to this Section 10.1(d) if Buyer is then in breach of any of its representations, warranties, covenants, or other agreements contained herein such that it would give rise to the failure of a condition set forth in Section 8.3(a) or Section 8.3(b).

(e) This Agreement may be terminated by Seller by giving written notice to Buyer if there has been a breach by Buyer of any representation, warranty, covenant, or other agreement made by it in this Agreement which would prevent the satisfaction of any condition to the obligations of Seller to effect the Closing and such breach has not been cured by Buyer or waived by Seller within 20 Business Days after receipt by Buyer of a separate notice of any such breach from Seller (or, if earlier, by the Termination Date); provided, that Seller shall not be permitted to terminate this Agreement pursuant to this Section 10.1(e) if Seller is then in breach of any of its representations, warranties, covenants, or other agreements contained herein such that it would give rise to the failure of a condition set forth in Section 8.2(a) or Section 8.2(b).

(f) This Agreement may be terminated by Buyer by giving at least 30 days' prior written notice to Seller if the condition set forth in Section 8.2(m) is not satisfied, based upon the Estimated Net Working Capital, Estimated Decommissioning Funds, Estimated CapEx Spend, Estimated Pre-Closing Accounting Error Amount, and Pre-Closing Debt Increase Amount (i) if the procedure set forth in Section 3.3(c) is not utilized, as set forth in the Preliminary Closing Statement delivered to Buyer pursuant to Section 3.3(b), or (ii) if the procedure set forth in Section 3.3(c) is utilized, as determined pursuant to Section 3.3(c) (whether by agreement of the Parties or by the Independent Accounting Firm).

Section 10.2. Procedure; Effect of Termination.

(a) In the event that a Party having the right to terminate this Agreement desires to terminate this Agreement, such Party shall give the other Party written notice of such termination, specifying the provisions hereof pursuant to which such termination is made and describing the basis for such termination in reasonable detail, and this Agreement will terminate immediately thereafter and the transactions contemplated hereby will be abandoned, without further action by either Party, whereupon the liabilities of the Parties hereunder will terminate, except as otherwise expressly provided in this Section 10.2.

(b) Article XI, Section 5.21 and Section 6.6 (with respect to broker's fees), Section 7.3 (with respect to expenses), Section 7.10 (with respect to public announcements), and this Section 10.2 (and any definitions in Article I referenced in any of the foregoing) will survive the termination of this Agreement.

(c) If Seller terminates this Agreement pursuant to Section 10.1(e) at a time when Buyer is the breaching Party, and if at such time (i) all of the conditions set forth in Section 8.1 and Section 8.2 have been satisfied (other than those conditions that by their nature are to be satisfied by actions taken at the Closing, provided that such conditions are capable of being satisfied at the Closing, and other than any condition in Section 8.1 that is not satisfied primarily as a result of Buyer's breach), (ii) Seller has irrevocably confirmed by a separate written notice to Buyer (A) that all conditions set forth in Section 8.3 (1) have been satisfied or waived by

Seller (other than those conditions that by their nature are to be satisfied by actions taken at the Closing, provided that such conditions are capable of being satisfied at the Closing) or (2) would have been satisfied except solely due to Buyer's breach and (B) that Seller is ready, willing and able to consummate the Closing subject only to Buyer satisfying its obligations to effect the Closing, and (iii) Buyer fails to consummate the Closing within five Business Days after receipt by Buyer of the foregoing notice, then:

(i) Seller shall be entitled to receive the Deposit from the Escrow Account in full; and

(ii) Buyer shall promptly, but in no event later than five Business Days after Buyer's receipt of written wire instructions from Seller, pay or cause to be paid to Seller a termination fee in an amount equal to \$100,000,000 minus the Deposit (such amount, the "**Termination Amount**" and together with the Deposit, the "**Termination Fee**") by wire transfer of same day funds.

(d) The Parties acknowledge that the Termination Fee constitutes liquidated damages and, except in respect of Seller's right to seek recovery for Buyer's Willful Breach (except to the extent such Willful Breach is due exclusively to the unavailability to Buyer of Financing for the transactions contemplated by this Agreement notwithstanding Buyer having honored, in all material respects, all of its obligations to its Financing Sources pursuant to such Financing) or Fraud, such right to receive the Termination Fee shall be Seller's sole and exclusive remedy and as full and complete satisfaction of any and all Losses of any nature against Buyer, its Affiliates, or their respective current and former Representatives (or assignees of any of the foregoing) that may be suffered by Seller as a result of such termination or any breach of this Agreement by Buyer or the failure of the Closing to occur, or otherwise in respect of this Agreement, any agreement executed in connection herewith, and the transactions contemplated hereby and thereby, and upon payment of the Termination Fee, Seller shall be deemed to have waived any and all other rights and remedies available to Seller in respect of such termination or breach (including specific performance, injunctive relief, or liability for breach of this Agreement before such termination) and Buyer and its Affiliates and their respective current and former Representatives shall have no further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby and thereby. It is expressly stipulated by the Parties that the actual amount of damages resulting from such a termination would be difficult if not impossible to determine accurately because of the unique nature of this Agreement and the Purchased Assets, the uncertainties of applicable commodity markets, and differences of opinion with respect to such matters, and that the liquidated damages associated with receipt by Seller of the Termination Fee are a reasonable estimate by the Parties of such damages under the circumstances and do not constitute a penalty.

(e) In the event that this Agreement is terminated under Section 10.1 and Seller is not entitled to receive the Deposit under Section 10.2(c), Buyer shall be entitled to receive the entirety of the Deposit. In addition, if at the time this Agreement is terminated pursuant to Section 10.1 Seller is a breaching Party, then Buyer shall be entitled to seek all rights and remedies available at Law or in equity for Seller's Willful Breach or Fraud.

(f) In the event Seller or Buyer is entitled to receive the Deposit pursuant to this Section 10.2, Buyer covenants and agrees that Buyer shall, and Seller covenants and agrees to cause the Department of Administration to, promptly, and in any event within three Business Days, execute and deliver to the Escrow Agent joint written instructions instructing the Escrow Agent to disburse from the Escrow Account to Seller or Buyer, as applicable, an amount equal to the Deposit.

(g) Upon any termination of this Agreement, all filings, applications, and other submissions made pursuant to this Agreement, to the extent practicable, will within a commercially reasonable time thereafter be withdrawn by the filing Party from the Governmental Authority or other Person to which they were made.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.1. Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Seller and Buyer.

Section 11.2. Waivers and Consents. Except as otherwise provided in this Agreement, any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 11.3. Notices. All notices and other communications hereunder will be in writing and will be deemed given (a) when received, if delivered personally, (b) when sent by electronic mail, or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

if to Seller, to:

South Carolina Public Service Authority
c/o South Carolina Department of Administration
1200 Senate Street, Suite 460
Columbia, South Carolina 29201
Attention: David Avant
Email: david.avant@admin.sc.gov

with copies (which shall not constitute notice) to:

Gibson, Dunn & Crutcher LLP
1801 California Street, Suite 4200
Denver, Colorado 80202

Attention: Gerald P. Farano
Email: jfarano@gibsondunn.com

if to Buyer, to:

NextEra Energy, Inc.
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Mark Hickson; Charles E. Sieving
E-mail: mark.hickson@nexteraenergy.com;
charles.sieving@nexteraenergy.com

with a copy (which shall not constitute notice) to:

Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, DC 20007
Attention: Joseph E. Gilligan; Paul D. Manca
E-mail: joseph.gilligan@hoganlovells.com;
paul.manca@hoganlovells.com

Section 11.4. Assignment. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by either Party, without the prior written consent of the other Party. Notwithstanding the foregoing, Buyer shall be permitted to assign its rights and obligations under this Agreement and any other Ancillary Agreement to which Seller is (or is contemplated to be) a party, individually or collectively, to one or more controlled subsidiaries with prior written notice to Seller, and upon the assignment by Buyer of any such right or obligation to (and, in the case of any such obligation, the express assumption of such obligation by) such subsidiary, (a) all references in this Agreement to “Buyer” with respect to such right or obligation shall apply to such subsidiary, and (b) in the case of any such assigned obligation, Buyer shall automatically and unconditionally be released and discharged from such obligation (and all liability in respect thereof) without the requirement of any further action by Seller or any other Person; provided, however, that no such assignment or assumption shall release Buyer from, or constitute a discharge of, Buyer’s obligation to make the payments or deposits required by Section 3.1(a), Section 3.1(c), or Section 3.5. For purposes of the foregoing, no entity shall constitute a “controlled subsidiary” of Buyer unless Buyer directly or indirectly (through one or more subsidiaries) holds at least 80% of the stock or other interests entitled to vote in the election of the directors or managers thereof or other governing body thereof, and any remaining portion of such stock or interests is held by one or more of the Persons set forth on Schedule 11.4.

Section 11.5. No Third Party Beneficiaries. Subject to Article IX and Section 11.15, nothing in this Agreement is intended to or shall be deemed to confer any rights or remedies upon any Person other than the Parties. Without limiting the foregoing, no provision of this Agreement creates any rights in any employee or former employee of Seller (including any

beneficiary or dependent thereof) in respect of anything, including continued employment or resumed employment or benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement.

Section 11.6. Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

Section 11.7. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

Section 11.8. Entire Agreement. This Agreement will be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by the Parties, and until such execution and delivery no legal obligation will be created by virtue hereof. This Agreement, the Confidentiality Agreement, the Transfer Instruments, the Escrow Agreement, the Purchase Price Escrow Agreement, and any certificate, instrument, or other document executed or delivered in connection herewith, together with the Appendices and Exhibits hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embody the entire agreement and understanding of the Parties hereto in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement, the Transfer Instruments, the Purchase Price Escrow Agreement, and any certificate, instrument, or other document executed or delivered in connection herewith supersede all prior agreements and understandings between the Parties with respect to such transactions contemplated hereby (excluding, for the avoidance of doubt, the Escrow Agreement). None of this Agreement, the Confidentiality Agreement, any Transfer Instrument, the Escrow Agreement, the Purchase Price Escrow Agreement, or any certificate, instrument, or other document executed or delivered in connection herewith shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement, or undertaking of any party with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

Section 11.9. Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument). Signatures to this Agreement transmitted by electronic mail in “portable document format” (.pdf) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document will have the same effect as physical delivery of the paper document bearing the original signature.

Section 11.10. Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF

OR RELATED TO THIS AGREEMENT, ANY FINANCING, THE ANCILLARY AGREEMENTS, ANY CERTIFICATE, INSTRUMENT, OR OTHER DOCUMENT EXECUTED OR DELIVERED IN CONNECTION IN HEREWITH, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY.

Section 11.11. No Consequential Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE IN THIS AGREEMENT OR PROVIDED FOR UNDER ANY APPLICABLE LAW, NO PARTY WILL BE LIABLE TO THE OTHER PARTY, EITHER IN CONTRACT OR IN TORT, FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF THE OTHER PARTY, INCLUDING BUSINESS INTERRUPTION, LOSS OF SALE PREMIUM, OR LOSS OF BUSINESS REPUTATION OR OPPORTUNITY, RELATING TO THE BREACH OR ALLEGED BREACH HEREOF OR OTHERWISE, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED TO THE OTHER PARTY IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN BY SUCH OTHER PARTY. THE EXCLUSION OF CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES AS SET FORTH IN THE PRECEDING SENTENCE DOES NOT APPLY TO ANY SUCH DAMAGES ACTUALLY PAID TO THIRD PARTIES BY BUYER OR SELLER.

Section 11.12. Submission to Jurisdiction. Each Party irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement brought by the other Party or its successors or assigns shall be brought and determined in any South Carolina State or federal court sitting in the State of South Carolina, Richland County, and each Party hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement. Each Party agrees not to commence any action, suit, or proceeding relating thereto except in the courts described above in South Carolina, other than actions in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any such court in South Carolina as described herein. Each Party further agrees that service of any process, summons, notice, or document by U.S. registered mail to the respective addresses set forth herein shall be effective service of process for any action, suit, or proceeding brought against either Party in any such court and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim, or otherwise, in any action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in South Carolina as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise), and (c) that (i) the suit, action, or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action, or proceeding is improper, or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Section 11.13. Specific Performance. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of the Parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any South Carolina State or federal court sitting in the State of South Carolina, Richland County, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the Parties hereby further waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to post security as a prerequisite to obtaining equitable relief. Notwithstanding anything to the contrary in this Agreement, under no circumstances shall Seller, directly or indirectly, be permitted or entitled to receive both a grant of specific performance or other equitable relief, on the one hand, and payment of any monetary damages whatsoever or the payment of the Termination Fee, on the other hand.

Section 11.14. Disclosure Generally.¹³ Notwithstanding anything to the contrary contained in the Seller Disclosure Schedules or in this Agreement, the information and disclosures contained in any Seller Disclosure Schedule shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Seller for which applicability of such information and disclosure is reasonably apparent on its face (without requiring reading any contract, document, or other information referred to therein). Subject to the first sentence of this Section 11.14, for convenience, certain cross references are included in the Seller Disclosure Schedules, but their inclusion does not mean that, in those instances where a cross reference is not included, any exclusion or disclosure contained therein is not disclosed or incorporated elsewhere. The fact that any item of information is disclosed in any Seller Disclosure Schedule shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms “material” or “Material Adverse Effect” or other similar terms in this Agreement. Any description of any agreement, plan, instrument, document, or other item set forth on a Schedule that is responsive to a specific disclosure requirement in this Agreement is a summary of the response to such requirement only and is qualified in its entirety by the terms of such agreement, plan, instrument, document, or item. Any additional matters in the Seller Disclosure Schedules are set forth for informational purposes and do not necessarily include other matters of a similar nature. No information set forth in the Seller Disclosure Schedules will be deemed to broaden in any way the scope of the Parties’ representations and warranties contained in this Agreement. The information contained in the Seller Disclosure Schedules is disclosed solely for the purposes of this Agreement, and no information contained therein shall be deemed to be an admission by any Party to any third party of any matter whatsoever, including of any violation of Law or breach of any agreement.

Section 11.15. Release.

¹³ **NEE Note to Draft:** The draft schedules remain subject to ongoing review by Buyer. All schedules remain subject to completion, and final schedules to be attached to the APA are to be agreed upon by Buyer and Seller.

(a) Except for the obligations of Seller under this Agreement and the Ancillary Agreements to which Seller is (or is contemplated to be) a party (including with respect to Seller's discharge of Excluded Liabilities), and except for Fraud, for and in consideration of the transfer of the Business, the Purchased Assets, and the Assumed Obligations, effective as of the Closing, Buyer, on behalf of itself and its Affiliates, hereby and absolutely and unconditionally releases, acquits, and forever discharges Seller, its present and former officers, directors, managers, employees, and agents and each of their respective heirs, executors, administrators, successors, and assigns, from any and all costs, expenses, damages, debts, or any other obligations, liabilities, and claims whatsoever, whether known or unknown, both in law and in equity, which Buyer or such Affiliates may have in each case to the extent arising out of or resulting from the Bidding Process, any action taken in accordance with the Joint Resolution, or the ownership and/or operation of the Business, the Purchased Assets, or the Assumed Obligations, or the assets, business, operations, conduct, services, products, and/or employees (including former employees) of any of the Business (and any predecessors), whether related to any period of time before or after the Closing Date including as to liabilities under any Environmental Law; provided, however, in the event Buyer is sued by Seller for any matter subject to this release, Buyer shall have the right to raise any defenses or counterclaims in connection with such lawsuits.

(b) Effective as of the Closing, Buyer shall and shall cause its Affiliates to absolutely and unconditionally release, acquit, and forever discharge the Department of Administration, its present and former officers, directors, managers, employees, and agents and each of their respective heirs, executors, administrators, successors, and assigns, from any and all costs, expenses, damages, debts, or any other obligations, liabilities, and claims whatsoever, whether known or unknown, both in law and in equity, which Buyer or such Affiliates may have in each case to the extent arising out of or resulting from the Bidding Process, the transactions contemplated by this Agreement, or any action taken in accordance with the Joint Resolution.

Section 11.16. Investigation and Reliance by Buyer.

(a) BUYER IS A SOPHISTICATED PURCHASER AND HAS MADE ITS OWN INDEPENDENT INVESTIGATION, REVIEW AND ANALYSIS REGARDING THE BUSINESS, THE PURCHASED ASSETS, THE ASSUMED OBLIGATIONS, AND THE TRANSACTIONS CONTEMPLATED HEREBY, WHICH INVESTIGATION, REVIEW, AND ANALYSIS WERE CONDUCTED BY BUYER TOGETHER WITH EXPERT ADVISORS, INCLUDING LEGAL COUNSEL, THAT IT HAS ENGAGED FOR SUCH PURPOSE.

(b) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT (INCLUDING THE CERTIFICATE DELIVERED PURSUANT TO SECTION 8.2(c)) OR ANY ANCILLARY AGREEMENT TO WHICH SELLER IS (OR IS CONTEMPLATED TO BE) A PARTY, (I) NEITHER SELLER NOR ANY OF ITS REPRESENTATIVES HAS MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION CONCERNING THE BUSINESS, THE PURCHASED ASSETS, OR THE ASSUMED OBLIGATIONS CONTAINED HEREIN OR MADE AVAILABLE IN CONNECTION WITH BUYER'S

INVESTIGATION OF THE FOREGOING, AND (II) SELLER, FOR ITSELF AND ON BEHALF OF ITS REPRESENTATIVES, EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY THAT MAY BE BASED ON SUCH INFORMATION OR ERRORS THEREIN OR OMISSIONS THEREFROM.

(c) WITHOUT LIMITING THE FOREGOING, BUYER EXPRESSLY ACKNOWLEDGES THE PROVISIONS SET FORTH IN SECTION 5.25 AND SELLER EXPRESSLY ACKNOWLEDGES THE PROVISIONS SET FORTH IN SECTION 6.8. WITHOUT LIMITING THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT (INCLUDING THE CERTIFICATE DELIVERED PURSUANT TO SECTION 8.2(c) HEREOF) OR ANY OTHER ANCILLARY AGREEMENT TO WHICH SELLER IS (OR IS CONTEMPLATED TO BE) A PARTY, NEITHER SELLER NOR ANY OF ITS REPRESENTATIVES SHALL HAVE OR BE SUBJECT TO ANY LIABILITY TO BUYER OR ANY OTHER PERSON RESULTING FROM THE DISTRIBUTION TO BUYER, OR BUYER'S USE OF, ANY INFORMATION, DOCUMENTS OR MATERIALS MADE AVAILABLE TO BUYER OR ITS AFFILIATES, OR ITS OR THEIR REPRESENTATIVES, WHETHER ORALLY OR IN WRITING, IN ANY "DATA ROOMS", MANAGEMENT PRESENTATIONS (INCLUDING ANY SITE VISITS), DUE DILIGENCE DISCUSSIONS, OR IN ANY OTHER FORM IN EXPECTATION OF, OR IN CONNECTION WITH, THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. BUYER FURTHER ACKNOWLEDGES THAT THERE ARE INHERENT UNCERTAINTIES IN ATTEMPTING TO MAKE ESTIMATES, PROJECTIONS, AND FORECASTS AND THAT IT TAKES FULL RESPONSIBILITY FOR MAKING ITS OWN EVALUATION OF THE ADEQUACY AND ACCURACY OF ANY SUCH ESTIMATES, PROJECTIONS, OR FORECASTS (INCLUDING THE REASONABLENESS OF THE ASSUMPTIONS UNDERLYING ANY SUCH ESTIMATES, PROJECTIONS, AND FORECASTS).

(d) BUYER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, BUYER SHALL ACQUIRE THE INTEREST ON AN "AS IS" AND "WHERE IS" BASIS, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN ARTICLE V. BUYER ACKNOWLEDGES AND AGREES THAT THE REPRESENTATIONS AND WARRANTIES IN ARTICLE V ARE THE RESULT OF ARM'S LENGTH NEGOTIATIONS BETWEEN SOPHISTICATED PARTIES. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NOTHING SET FORTH IN THIS SECTION 11.16 SHALL LIMIT OR RELIEVE IN ANY WAY ANY PERSON OF ANY LIABILITY TO BUYER ARISING OUT OF FRAUD.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be executed as of the date first written above.

SELLER:

South Carolina Public Service Authority

By: South Carolina Department of
Administration

By: _____

Name: _____

Title: _____

BUYER:

NextEra Energy, Inc.

By: _____

Name: _____

Title: _____

EXHIBIT A

FORM OF BILL OF SALE

[Attached]

EXHIBIT A

FORM OF BILL OF SALE

This BILL OF SALE (this “*Bill of Sale*”), dated as of [●], 202[●] and effective as of 12:01 a.m. Eastern time on such date (the “*Effective Time*”), is entered into by and between the South Carolina Public Service Authority, a South Carolina body corporate and politic (“*Seller*”), and [Buyer], a [●] (“*Buyer*”). Seller and Buyer are sometimes referred to individually as a “*Party*” and collectively as the “*Parties*”. Capitalized terms used in this Bill of Sale and not otherwise defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined below).

WHEREAS, Seller is a body corporate and politic created by Act No. 887 of the Acts of the State of South Carolina for 1934 and acts supplemental thereto and amendatory thereof (Code of Laws of South Carolina 1976, Sections 58-31-10 through 58-31-450) for the purpose of providing electric power and wholesale water;

WHEREAS, Seller and NextEra Energy, Inc., a Florida corporation (“*Buyer Parent*”), entered into that certain Asset Purchase Agreement, dated as of [●], 20[●] (the “*Asset Purchase Agreement*”), pursuant to which Seller agreed to sell, assign, convey, transfer, and deliver to Buyer Parent at Closing all of the Purchased Assets as they exist as of the Effective Time;

WHEREAS, in accordance with Section 11.4 of the Asset Purchase Agreement, Buyer Parent has assigned to Buyer its right under the Asset Purchase Agreement to have the Purchased Assets sold, assigned, conveyed, transferred, and delivered to it by Seller;

WHEREAS, the Purchased Assets include, among other things, all of Seller’s right, title, and interest in, to, and under all of the tangible personal property of every kind, nature, character, and description (wherever located) that is used or held for use in connection with, or otherwise relates to, the Business (other than the Excluded Assets) (such tangible personal property, the “*Purchased Tangible Personal Property*”);

WHEREAS, the Asset Purchase Agreement provides for the execution and delivery of this Bill of Sale in connection with the Closing in order to effect the transfer of all of Seller’s right, title, and interest in, to, and under the Purchased Tangible Personal Property; and

WHEREAS, the execution and delivery of this Bill of Sale by Seller is a condition to the obligations of Buyer (and, as the case may be, Buyer Parent) to consummate the transactions contemplated by the Asset Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants set forth in the Asset Purchase Agreement and hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Sale of Purchased Assets. Effective as of the Effective Time, for good and valuable consideration, Seller hereby sells, assigns, conveys, transfers, and delivers to Buyer all

of Seller's right, title, and interest in, to, and under any and all Purchased Tangible Personal Property, including the Purchased Tangible Personal Property described on Exhibit A attached hereto.

2. Excluded Assets and Excluded Liabilities Not Transferred or Assumed.

Notwithstanding Section 1 of this Bill of Sale, nothing expressed or implied in this Bill of Sale is intended to effect, and nothing expressed or implied in this Bill of Sale shall constitute or be deemed to be, (a) a sale, conveyance, transfer, assignment, or delivery to Buyer of any Excluded Asset, or (b) an assumption by Buyer or its Affiliates (including Buyer Parent) of any Excluded Liability.

3. Conflict with Asset Purchase Agreement.

Seller, by its execution of this Bill of Sale, and Buyer, by its acceptance of this Bill of Sale, each hereby acknowledges and agrees that neither the representations and warranties nor the rights, remedies, or obligations of any party under the Asset Purchase Agreement shall be deemed to be enlarged, modified, or altered in any way by this Bill of Sale. In the event of a conflict between the terms and provisions of this Bill of Sale and the Asset Purchase Agreement, the terms and provisions of the Asset Purchase Agreement shall govern and control.

4. Further Assurances.

Seller hereby covenants and agrees to, at any time and from time to time after the Effective Time and without further consideration, execute and deliver such further instruments of conveyance and transfer and take such additional action as Buyer may reasonably request to effect, consummate, confirm, or evidence the sale and transfer of the Purchased Tangible Personal Property or to otherwise effectuate the provisions and purposes of this Bill of Sale. To the extent that Seller has the actual authority to do so, Seller hereby authorizes Buyer to take any appropriate action to protect the right, title, and interest in, to, and under the Purchased Tangible Personal Property hereby sold, conveyed, transferred, assigned, and delivered, in the name of Seller, Buyer, or any other name (for the benefit of Buyer and its successors and assigns), against each and every Person or Persons whomsoever claiming or asserting any claim against any or all of the same.

5. Amendment; Waiver.

This Bill of Sale may be amended, modified, or supplemented only by written agreement of Seller and Buyer. Any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

6. Successors and Assigns; No Third Party Beneficiaries.

This Bill of Sale and all of the provisions hereof will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Nothing in this Bill of Sale is intended to or shall be deemed to confer any rights or remedies upon any Person other than the parties.

7. Severability.

Any term or provision of this Bill of Sale that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of

the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

8. Counterparts. This Bill of Sale may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument). Signatures to this Bill of Sale transmitted by electronic mail in “portable document format” (.pdf) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document will have the same effect as physical delivery of the paper document bearing the original signature.

9. Governing Law. This Bill of Sale (as well as any claim or controversy arising out of or relating to this Bill of Sale or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

10. Interpretation. The parties have participated jointly in the negotiation and drafting of this Bill of Sale, and, in the event an ambiguity or question of intent or interpretation arises, this Bill of Sale shall be construed as jointly drafted by the parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Bill of Sale. The division of this Bill of Sale into sections, and the insertion of headings, are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Bill of Sale. For purposes of this Bill of Sale (including the Recitals and Exhibits hereto), (a) the words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Bill of Sale (including the Exhibits to this Bill of Sale) as a whole and not merely to a subdivision in which such words appear, (b) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it, (c) the word “or” shall be disjunctive but not exclusive, and (d) the word “will” shall have the same meaning as the word “shall”.

8. Disclaimer.

WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS BILL OF SALE, NEITHER SELLER NOR ANY OF ITS REPRESENTATIVES IS MAKING ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED, RELATING TO THE PURCHASED TANGIBLE PERSONAL PROPERTY, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION OR WARRANTY RELATING TO THE THE MAINTENANCE, REPAIR, CONDITION, DESIGN, PERFORMANCE, VALUE, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE OF THE PURCHASED TANGIBLE PERSONAL PROPERTY, AND SELLER HEREBY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Bill of Sale as of the date first above written.

SELLER:

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

By: _____

Name:

Title:

BUYER:

[BUYER]

By: _____

Name:

Title:

EXHIBIT A

CERTAIN PURCHASED TANGIBLE PERSONAL PROPERTY

EXHIBIT B

FORM OF ASSUMPTION AGREEMENT

[Attached]

EXHIBIT B

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this “*Assignment*”), dated as of [●], 202[●] and effective as of 12:01 a.m. Eastern time on such date (the “*Effective Time*”), is entered into by and between the South Carolina Public Service Authority, a South Carolina body corporate and politic (“*Assignor*”), and [Assignee], a [●] (“*Assignee*”). Assignor and Assignee are sometimes referred to individually as a “*Party*” and collectively as the “*Parties*”. Capitalized terms used in this Assignment and not otherwise defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined below).

WHEREAS, Assignor is a body corporate and politic created by Act No. 887 of the Acts of the State of South Carolina for 1934 and acts supplemental thereto and amendatory thereof (Code of Laws of South Carolina 1976, Sections 58-31-10 through 58-31-450) for the purpose of providing electric power and wholesale water;

WHEREAS, Assignor and NextEra Energy, Inc., a Florida corporation (“*Assignee Parent*”), entered into that certain Asset Purchase Agreement, dated as of [●], 2020 (the “*Asset Purchase Agreement*”), pursuant to which (a) Assignor agreed to sell, assign, convey, transfer, and deliver to Assignee Parent all of Assignor’s right, title, and interest in, to, and under all of the assets, properties, and rights of every kind, nature, character, and description (wherever located), whether real, personal, or mixed, whether tangible or intangible, that are used or held for use in connection with, or otherwise relate to, the Business (other than the Excluded Assets) (collectively, the “*Purchased Assets*”), as they exist as of the Effective Time, and (b) Assignee Parent agreed to assume and become responsible for at Closing, and thereafter to pay, perform, and discharge when due, those liabilities and obligations that are specifically listed in Section 2.4 of the Asset Purchase Agreement, as the same shall exist from and after the effective time (collectively, but excluding the Excluded Liabilities, the “*Assumed Obligations*”);

WHEREAS, in accordance with Section 11.4 of the Asset Purchase Agreement, Assignee Parent has assigned to Assignee (a) its right under the Asset Purchase Agreement to have the Purchased Assets sold, assigned, conveyed, transferred, and delivered to it by Assignor, and (b) its obligation under the Asset Purchase Agreement to assume and become responsible for, and to pay, perform, and discharge when due, the Assumed Obligations;

WHEREAS, the Asset Purchase Agreement provides for the execution and delivery of this Assignment in connection with the Closing in order to effect the assignment and transfer to Assignee of, and the acceptance and assumption by Assignee of, (a) all of the Purchased Assets as they exist as of the Effective Time, and (b) all of the Assumed Obligations; and

WHEREAS, the execution and delivery of this Assignment by Assignor is a condition to the obligations of Assignee (and, as the case may be, Assignee Parent) to consummate, and the execution and delivery of this Assignment by Assignee is a condition to the obligations of Assignor to consummate, the transactions contemplated by the Asset Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants set forth in the Asset Purchase Agreement and hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Assignment. Effective as of the Effective Time, (a) Assignor hereby sells, assigns, conveys, transfers, and delivers to Assignee all of the Purchased Assets, including the Purchased Assets described on Exhibit A attached hereto, and (b) Assignee hereby accepts the foregoing assignment, sale, conveyance, transfer, and delivery of the Purchased Assets.

2. Assumption. Effective as of the Effective Time, Assignee hereby assumes, and agrees from and after the Effective Time to pay, perform, and discharge when due, the Assumed Obligations.

3. Excluded Assets and Excluded Liabilities Not Transferred or Assumed. Notwithstanding Section 1 or Section 2 of this Assignment, nothing expressed or implied in this Assignment is intended to effect, and nothing expressed or implied in this Assignment shall constitute or be deemed to be, (a) an assignment, sale, conveyance, transfer, or delivery to Assignee of any Excluded Asset, or (b) an assumption by Assignee or its Affiliates (including Assignee Parent) of any Excluded Liability.

4. Conflict with Asset Purchase Agreement. Each Party, by its execution of this Assignment, hereby acknowledges and agrees that neither the representations and warranties nor the rights, remedies, or obligations of any party under the Asset Purchase Agreement shall be deemed to be enlarged, modified, or altered in any way by this Assignment. In the event of a conflict between the terms and provisions of this Assignment and the Asset Purchase Agreement, the terms and provisions of the Asset Purchase Agreement shall govern and control.

5. Further Assurances. Each Party hereby covenants and agrees to, at any time and from time to time after the Effective Time and without further consideration, execute and deliver such further instruments of conveyance and transfer (or instruments of assumption) and take such additional action as the other Party may reasonably request to effect, consummate, confirm, or evidence the sale and transfer of the Purchased Assets or the assumption of the Assumed Obligations or to otherwise effectuate the provisions and purposes of this Assignment. To the extent that Assignor has the actual authority to do so, Assignor hereby authorizes Assignee to take any appropriate action to protect any Purchased Asset hereby assigned, sold, conveyed, transferred, and delivered, in the name of Assignor, Assignee, or any other name (for the benefit of Assignee and its successors and assigns), against each and every Person or Persons whomsoever claiming or asserting any claim against any or all of the same.

6. Amendment; Waiver. This Assignment may be amended, modified, or supplemented only by written agreement of Assignor and Assignee. Any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

7. Successors and Assigns; No Third Party Beneficiaries. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Assignment is intended to or shall be deemed to confer any rights or remedies upon any Person other than the Parties.

8. Severability. Any term or provision of this Assignment that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

9. Counterparts. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument). Signatures to this Assignment transmitted by electronic mail in “portable document format” (.pdf) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document will have the same effect as physical delivery of the paper document bearing the original signature.

10. Governing Law. This Assignment (as well as any claim or controversy arising out of or relating to this Assignment or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

11. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Assignment, and, in the event an ambiguity or question of intent or interpretation arises, this Assignment shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Assignment. The division of this Assignment into sections, and the insertion of headings, are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Assignment. For purposes of this Assignment (including the Recitals and Exhibits hereto), (a) the words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Assignment (including the Exhibits to this Assignment) as a whole and not merely to a subdivision in which such words appear, (b) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it, (c) the word “or” shall be disjunctive but not exclusive, and (d) the word “will” shall have the same meaning as the word “shall”.

12. Disclaimer.

WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS ASSIGNMENT, NEITHER ASSIGNOR NOR ANY OF ITS REPRESENTATIVES IS MAKING ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED, RELATING TO THE PURCHASED ASSETS, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION OR WARRANTY RELATING TO THE MAINTENANCE, REPAIR, CONDITION, DESIGN, PERFORMANCE, VALUE, MERCHANTABILITY OR FITNESS

FOR ANY PARTICULAR USE OR PURPOSE OF THE PURCHASED ASSETS, AND
ASSIGNOR HEREBY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the Parties hereto have duly executed and delivered this Assignment as of the day and year first above written.

ASSIGNOR:

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

By: _____

Name:

Title:

ASSIGNEE:

[ASSIGNEE]

By: _____

Name:

Title:

Exhibit A

Certain Purchased Assets

EXHIBIT C

FORM OF ASSIGNMENT OF CONTRACTS

[Attached]

EXHIBIT C

FORM OF ASSIGNMENT OF CONTRACTS

This ASSIGNMENT OF CONTRACTS (this “*Assignment*”), dated as of [●], 202[●] and effective as of 12:01 a.m. Eastern time on such date (the “*Effective Time*”), is entered into by and between the South Carolina Public Service Authority, a South Carolina body corporate and politic (“*Assignor*”), and [Assignee], a [●] (“*Assignee*”). Assignor and Assignee are sometimes referred to individually as a “*Party*” or collectively as the “*Parties*”. Capitalized terms used in this Assignment and not otherwise defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined below).

WHEREAS, Assignor is a body corporate and politic created by Act No. 887 of the Acts of the State of South Carolina for 1934 and acts supplemental thereto and amendatory thereof (Code of Laws of South Carolina 1976, Sections 58-31-10 through 58-31-450) for the purpose of providing electric power and wholesale water;

WHEREAS, Assignor and NextEra Energy, Inc., a Florida corporation (“*Assignee Parent*”), entered into that certain Asset Purchase Agreement, dated as of [●], 2020 (the “*Asset Purchase Agreement*”), pursuant to which (a) Assignor agreed to sell, assign, convey, transfer, and deliver to Assignee Parent at Closing all of the Purchased Assets as they exist as of the Effective Time, and (b) Assignee Parent agreed to assume and become responsible for at Closing, and thereafter to pay, perform, and discharge when due, all of the Assumed Obligations;

WHEREAS, in accordance with Section 11.4 of the Asset Purchase Agreement, Assignee Parent has assigned to Assignee (a) its right under the Asset Purchase Agreement to have the Purchased Assets, assigned, sold, conveyed, transferred, and delivered to it by Assignor, and (b) its obligation under the Asset Purchase Agreement to assume and become responsible for, and to pay, perform, and discharge when due, the Assumed Obligations;

WHEREAS, (a) the Purchased Assets include, among other things, all of Assignor’s right, title, and interest in, to, and under the Purchased Contracts, and (b) the Assumed Obligations include, among other things, all liabilities and obligations of Assignor under the Purchased Contracts (other than any liabilities or obligations to the extent arising out of or relating to any default, breach, or violation, or an event that, if not cured, would be a default, breach, or violation, under any Purchased Contract by Assignor prior to the Effective Time), as the same shall exist from and after the Effective Time and to the extent the same do not constitute Excluded Liabilities (those liabilities and obligations of Assignor under the Purchased Contracts that constitute Assumed Obligations, the “*Assumed Contractual Obligations*”);

WHEREAS, the Asset Purchase Agreement provides for the execution and delivery of this Assignment in connection with the Closing in order to effect the assignment of the Purchased Contracts to Assignee; and

WHEREAS, the execution and delivery of this Assignment by Assignor is a condition to the obligations of Assignee (and, as the case may be, Assignee Parent) to consummate, and the execution and delivery of this Assignment by Assignee is a condition to the

obligations of Assignor to consummate, the transactions contemplated by the Asset Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants set forth in the Asset Purchase Agreement and hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Assignment. Effective as of the Effective Time, (a) Assignor hereby sells, assigns, conveys, transfers, and delivers to Assignee all of Assignor's right, title, and interest in, to, and under the Purchased Contracts, including the Purchased Contracts listed on Exhibit A attached hereto, and (b) Assignee hereby accepts the foregoing sale, assignment, conveyance, transfer, and delivery of such right, title, and interest in, to, and under the Purchased Contracts.

2. Assumption. Effective as of the Effective Time, Assignee hereby assumes, and agrees from and after the Effective Time to pay, perform, and discharge when due, the Assumed Contractual Obligations.

3. Excluded Assets and Excluded Liabilities Not Transferred or Assumed. Notwithstanding Section 1 or Section 2 of this Assignment, nothing expressed or implied in this Assignment is intended to effect, and nothing expressed or implied in this Assignment shall constitute or be deemed to be, (a) an assignment, sale, conveyance, transfer, or delivery to Assignee of any Excluded Asset, or (b) an assumption by Assignee or its Affiliates (including Assignee Parent) of any Excluded Liability.

4. Conflict with Asset Purchase Agreement. Each Party, by its execution of this Assignment, hereby acknowledges and agrees that neither the representations and warranties nor the rights, remedies, or obligations of any party under the Asset Purchase Agreement shall be deemed to be enlarged, modified, or altered in any way by this Assignment. In the event of a conflict between the terms and provisions of this Assignment and the Asset Purchase Agreement, the terms and provisions of the Asset Purchase Agreement shall govern and control.

5. Further Assurances. Each Party hereby covenants and agrees to, at any time and from time to time after the Effective Time and without further consideration, execute and deliver such further instruments of conveyance and transfer (or instruments of assumption) and take such additional action as the other Party may reasonably request to effect, consummate, confirm, or evidence the assignment and transfer of the Purchased Contracts or the assumption of the Assumed Contractual Obligations or to otherwise effectuate the provisions and purposes of this Assignment. To the extent that Assignor has the actual authority to do so, Assignor hereby authorizes Assignee to take any appropriate action to protect the right, title, and interest in, to, and under the Purchased Contracts hereby assigned, sold, conveyed, transferred, and delivered, in the name of Assignor, Assignee, or any other name (for the benefit of Assignee and its successors and assigns), against each and every Person or Persons whomsoever claiming or asserting any claim against any or all of the same.

6. Amendment; Waiver. This Assignment may be amended, modified, or supplemented only by written agreement of Assignor and Assignee. Any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the

Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

7. Successors and Assigns; No Third Party Beneficiaries. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Assignment is intended to or shall be deemed to confer any rights or remedies upon any Person other than the Parties.

8. Severability. Any term or provision of this Assignment that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

9. Counterparts. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument). Signatures to this Assignment transmitted by electronic mail in “portable document format” (.pdf) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document will have the same effect as physical delivery of the paper document bearing the original signature.

10. Governing Law. This Assignment (as well as any claim or controversy arising out of or relating to this Assignment or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

11. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Assignment, and, in the event an ambiguity or question of intent or interpretation arises, this Assignment shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Assignment. The division of this Assignment into sections, and the insertion of headings, are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Assignment. For purposes of this Assignment (including the Recitals and Exhibits hereto), (a) the words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Assignment (including the Exhibits to this Assignment) as a whole and not merely to a subdivision in which such words appear, (b) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it, (c) the word “or” shall be disjunctive but not exclusive, and (d) the word “will” shall have the same meaning as the word “shall”.

12. Disclaimer.

WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS ASSIGNMENT, NEITHER SELLER NOR ANY OF ITS REPRESENTATIVES IS MAKING ANY REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER,

ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED, RELATING TO THE ASSIGNED CONTRACTS, AND ASSIGNOR HEREBY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the Parties hereto have duly executed and delivered this Assignment as of the date first above written.

ASSIGNOR:

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

By: _____

Name:

Title:

ASSIGNEE:

[ASSIGNEE]

By: _____

Name:

Title:

Exhibit A

Certain Purchased Contracts

EXHIBIT D

FORM OF DEED

[Attached]

EXHIBIT D

FORM OF DEED

Prepared by and after recording return to:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____) **TITLE TO REAL ESTATE**
(Quit-Claim Deed)

KNOW ALL MEN BY THESE PRESENTS, that the **South Carolina Public Service Authority**, a South Carolina body corporate and politic (“**Grantor**”), in the State aforesaid, for and in consideration of the sum of **FIVE AND NO/HUNDREDTHS DOLLARS (\$5.00)** to the Grantor paid by [●], a [●] whose mailing address is c/o Florida Power & Light Company, 700 Universe Blvd., PSX/JB, Juno Beach, FL 33408 (“**Grantee**”), the receipt and legal sufficiency of which are hereby acknowledged, has remised, released and forever quit-claimed, and by these presents does remise, release and forever quit-claim unto the Grantee, all of the Grantor’s right, title and interest, if any, in and to the following described property (collectively, the “**Premises**”):

Attached EXHIBIT A is incorporated herein by reference for the legal description of the Premises.

This being the same property conveyed to the **South Carolina Public Service Authority**, by deed of _____, a _____, dated the ____ day of _____, _____, and recorded the ____ day of _____, _____, in the Office of the Register of Deeds for _____ County, South Carolina in Book _____ at Page _____.

TMS No. ____ - ____ - ____ - ____

Grantee’s Address:

TO HAVE AND TO HOLD all and singular the Premises before mentioned unto the Grantee, and the Grantee’s successors and assigns, forever, the Premises and all appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the Grantor, if any to the Premises.

WITNESS the Hand and Seal of the Grantor this ____ day of _____, **20** ____.

**Individual Signature Pages are attached.
The balance of this page is blank.**

SIGNATURE PAGE

IN WITNESS WHEREOF, Grantor has caused this Quit Claim Deed to be executed in its name and its seal affixed hereto this _____ day of _____, 20____.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

GRANTOR:

South Carolina Public Service Authority,
a body corporate and politic under the laws
of the State of South Carolina

By: **The South Carolina Department of
Administration**

By: _____

First Witness

Print Name

Print Name

Print Title

Second Witness

(SEAL)

Print Name

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF _____)

)

On this _____ day of _____, 20____, before me personally came the within-named Grantor, **The South Carolina Public Service Authority**, a South Carolina body corporate and politic, by the **South Carolina Department of Administration** by _____, its _____, who acknowledged to me that he or she executed the foregoing instrument; and who is personally known to me, or who was proved to me on the basis of satisfactory evidence to be the person who executed the foregoing instrument.

(Signature of Notary Public)

Name: _____

Notary Public for the State of South Carolina

My Commission Expires: _____

[AFFIX NOTARY STAMP OR SEAL]

EXHIBIT A
LEGAL DESCRIPTION

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)

**AFFIDAVIT FOR TAXABLE OR
 EXEMPT TRANSFERS**

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1) I have read the information on this affidavit and I understand such information.

2) The property being transferred is located at _____, _____,
 South Carolina, bearing _____ County Tax Map Number ____ - ____ - ____ - ____, was transferred
 by the South Carolina Public Service Authority to _____ on
 _____, 20__.

3) Check one of the following: The deed is

- (a) subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) exempt from the deed recording fee because (See Information section of affidavit):

 (If exempt, please skip items 4-7, and go to item 8 of this affidavit).

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?
 Check Yes ___ or No ___.

4) Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):

- (a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ ____.
- (b) The fee is computed on the fair market value of the realty which is \$ ____.
- (c) The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ ____.

5) Check Yes ___ or No ___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(e)(6), and lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer). If "Yes," the amount of the outstanding balance of this lien or encumbrance is \$ ____.

6) The deed recording fee is computed as follows:

- | | | |
|---|----|------|
| (a) Place the amount listed in Item 4 above here: | \$ | 0.00 |
| (b) Place the amount listed in Item 5 above here:
(If no amount is listed, place zero here). | \$ | 0.00 |
| (c) Subtract Line 6(b) from Line 6(a) and place result here: | \$ | 0.00 |

7) The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is \$_____.

8) As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as **Seller**.

9) I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisonment not more than one year or both.

Responsible Person Connected with the Transaction

By: _____ (SEAL)
Print name

Print title of person signing

SWORN to before me this ____ day of _____, 20__.

Notary Public for the State of South Carolina
My Commission Expires:_____

EXHIBIT E

FORM OF ASSIGNMENT OF LEASES

[Attached]

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants set forth in the Asset Purchase Agreement and hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Assignment. Assignor hereby conveys, transfers and assigns unto Assignee, its successors and assigns, all right, title and interest of Assignor in, to, and under the Leases relating to the Leased Real Property, including, without limitation, the Leases specifically described in Exhibit A.

2. Assumption. In consideration of the foregoing Assignment, Assignee hereby accepts this Assignment and hereby assumes and agrees to perform and comply with all the covenants, conditions, agreements, and obligations of Assignor under the Leases relating to the Leased Real Property from and after the date hereof.

3. Excluded Assets and Excluded Liabilities Not Transferred or Assumed. Notwithstanding Section 1 or Section 2 of this Assignment, nothing expressed or implied in this Assignment is intended to effect, and nothing expressed or implied in this Assignment shall constitute or be deemed to be, (a) an assignment, sale, conveyance, transfer, or delivery to Assignee of any Excluded Asset, or (b) an assumption by Assignee or its Affiliates (including Assignee Parent) of any Excluded Liability.

4. Conflict with Asset Purchase Agreement. Each Party, by its execution of this Assignment, hereby acknowledges and agrees that neither the representations and warranties nor the rights, remedies, or obligations of any party under the Asset Purchase Agreement shall be deemed to be enlarged, modified, or altered in any way by this Assignment. In the event of a conflict between the terms and provisions of this Assignment and the Asset Purchase Agreement, the terms and provisions of the Asset Purchase Agreement shall govern and control.

5. No Warranties of Title. Assignee understands and agrees that Assignor's assignment of Assignor's leasehold right, title, and interest in and to the Leases relating to the Leased Real Property is AS IS and without any warranties of title to the Leased Real Property and is subject to all matters of public record affecting the Leases and the Leased Real Property.

6. Further Assurances. Each Party hereby covenants and agrees to, at any time and from time to time after the Effective Time and without further consideration, execute and deliver such further instruments of conveyance and transfer (or instruments of assumption) and take such additional action as the other Party may reasonably request to effect, consummate, confirm, or evidence the assignment and transfer of the Leases relating to the Leased Real Property described herein or the assumption of the Leases relating to the Leased Real Property described herein or to otherwise effectuate the provisions and purposes of this Assignment. To the extent that Assignor has the actual authority to do so, Assignor hereby authorizes Assignee to take any appropriate action to protect the right, title, and interest in, to, and under the Leases relating to the Leased Real Property hereby assigned, in the name of Assignor, Assignee, or any other name (for the benefit of Assignee and its successors and assigns), against each and every Person or Persons whomsoever claiming or asserting any claim against any or all of the same.

7. Amendment; Waiver. This Assignment may be amended, modified, or supplemented only by written agreement of Assignor and Assignee. Any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

8. Successors and Assigns; No Third Party Beneficiaries. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Assignment is intended to or shall be deemed to confer any rights or remedies upon any Person other than the Parties.

9. Severability. Any term or provision of this Assignment that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10. Counterparts. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument).

11. Governing Law. This Assignment (as well as any claim or controversy arising out of or relating to this Assignment or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

12. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Assignment, and, in the event an ambiguity or question of intent or interpretation arises, this Assignment shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Assignment. The division of this Assignment into sections, and the insertion of headings, are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Assignment. For purposes of this Assignment (including the Recitals and Exhibits hereto), (a) the words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Assignment (including the Exhibits to this Assignment) as a whole and not merely to a subdivision in which such words appear, (b) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it, (c) the word “or” shall be disjunctive but not exclusive, and (d) the word “will” shall have the same meaning as the word “shall”.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the date first written above.

WITNESSED:

South Carolina Public Service Authority

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

)

COUNTY OF _____)

I, _____, Notary Public for the State of _____, do hereby certify that _____, the _____ of the South Carolina Public Service Authority, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn to and subscribed before me this _____ day of _____, 20__.

_____(L.S.)

Notary Public, State of _____

My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the date first written above.

WITNESSED:

[ASSIGNEE]

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

)

COUNTY OF _____)

I, _____, Notary Public for the State of _____, do hereby certify that _____, the _____ of [Assignee], personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn to and subscribed before me this _____ day of _____, 20__.

_____(L.S.)

Notary Public, State of _____

My Commission Expires: _____

EXHIBIT A

LEASES

EXHIBIT F

FORM OF ASSIGNMENT OF EASEMENTS

[Attached]

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants set forth in the Asset Purchase Agreement and hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Assignment. Assignor hereby conveys, transfers and assigns unto Assignee, its successors and assigns, all right, title and interest of Assignor in, to and under the Easements.

2. Scope of Easements. This assignment does not change the scope of the Easements or in any way alter the burden to the servient estate.

3. Restricted Easements. Notwithstanding the foregoing, if the consent of any third party is required in order to assign any Easements and such consent has not been obtained and as a result thereof Assignee shall be prevented by such third party from receiving a particular Easement, or if any attempted assignment would adversely affect any Easements such that Assignee would not, in fact, receive all the rights and benefits with respect to such Easements (in either case the “**Restricted Easements**”), such Restricted Easements shall not be hereby assigned but instead shall be retained and held by Assignor pursuant to Section 7.4 of the Asset Purchase Agreement.

4. Assumption. In consideration of the foregoing Assignment, Assignee hereby accepts this Assignment and hereby assumes and agrees to perform and comply with all the covenants, conditions, agreements, and obligations of Assignor under the Easements from and after the date hereof.

5. Additional Assignments. This Assignment is in addition to, and not in lieu of, any other assignment, transfer or conveyance by Assignor to Assignee on or about the date hereof.

6. Excluded Assets and Excluded Liabilities Not Transferred or Assumed. Notwithstanding Section 1 or Section 4 of this Assignment, nothing expressed or implied in this Assignment is intended to effect, and nothing expressed or implied in this Assignment shall constitute or be deemed to be, (a) an assignment, sale, conveyance, transfer, or delivery to Assignee of any Excluded Asset, or (b) an assumption by Assignee or its Affiliates (including Assignee Parent) of any Excluded Liability.

7. No Warranties of Title. Assignee understands and agrees that Assignor’s assignment of Assignor’s right, title, and interest in, to and under the Easements is AS IS and without any warranties of title to the real property to which the applicable Easement applies (such real property, the “**Easement Premises**”) and is subject to all matters of public record affecting the Easement Premises and the Easements.

8. Conflict with Asset Purchase Agreement. Each Party, by its execution of this Assignment, hereby acknowledges and agrees that neither the representations and warranties nor the rights, remedies, or obligations of any party under the Asset Purchase Agreement shall be deemed to be enlarged, modified, or altered in any way by this Assignment. In the event of a conflict between the terms and provisions of this Assignment and the Asset Purchase Agreement, the terms and provisions of the Asset Purchase Agreement shall govern and control.

9. Further Assurances. Each Party hereby covenants and agrees to, at any time and from time to time after the Effective Time and without further consideration, execute and deliver such further instruments of conveyance and transfer (or instruments of assumption) and take such additional action as the other Party may reasonably request to effect, consummate, confirm, or evidence the assignment and transfer of the Easements or the assumption of the Easements or to otherwise effectuate the provisions and purposes of this Assignment. To the extent that Assignor has the actual authority to do so, Assignor hereby authorizes Assignee to take any appropriate action to protect the right, title, and interest in, to, and under the Easements, in the name of Assignor, Assignee, or any other name (for the benefit of Assignee and its successors and assigns), against each and every Person or Persons whomsoever claiming or asserting any claim against any or all of the same.

10. Amendment; Waiver. This Assignment may be amended, modified, or supplemented only by written agreement of Assignor and Assignee. Any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

11. Successors and Assigns; No Third Party Beneficiaries. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Assignment is intended to or shall be deemed to confer any rights or remedies upon any Person other than the Parties.

12. Severability. Any term or provision of this Assignment that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

13. Counterparts. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument).

14. Governing Law. This Assignment (as well as any claim or controversy arising out of or relating to this Assignment or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

15. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Assignment, and, in the event an ambiguity or question of intent or interpretation arises, this Assignment shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Assignment. The division of this Assignment into sections, and the insertion of headings, are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Assignment. For purposes of this Assignment (including the

Recitals and Exhibits hereto), (a) the words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Assignment (including the Exhibits to this Assignment) as a whole and not merely to a subdivision in which such words appear, (b) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it, (c) the word “or” shall be disjunctive but not exclusive, and (d) the word “will” shall have the same meaning as the word “shall”.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the date first written above.

WITNESSED:

South Carolina Public Service Authority

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

)

COUNTY OF _____)

I, _____, Notary Public for the State of _____, do hereby certify that _____, the _____ of the South Carolina Public Service Authority, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn to and subscribed before me this _____ day of _____, 20__.

_____(L.S.)

Notary Public, State of _____

My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the date first written above.

WITNESSED:

[Assignee]

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

)

COUNTY OF _____)

I, _____, Notary Public for the State of _____, do hereby certify that _____, the _____ of [Assignee], personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn to and subscribed before me this _____ day of _____, 20__.

_____(L.S.)

Notary Public, State of _____

My Commission Expires: _____

EXHIBIT A

EASEMENTS AND RIGHTS OF WAY

STATE OF _____)
COUNTY OF _____)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

- 1. I have read the information on this affidavit and I understand such information.
- 2. The easements being transferred are transferred by the South Carolina Public Service Authority to [Assignee] on _____, 20__.
- 3. Check one of the following: The deed is
 - (a) ___ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) ___ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) X exempt from the deed recording fee pursuant to S.C. Code Section 58-31-800(B)(3).

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ___ or No X

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) ___ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____
- (b) ___ The fee is computed on the fair market value of the realty which is _____.
- (c) ___ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ___ or No ___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: \$ _____
- (b) Place the amount listed in item 5 above here: \$ _____ (If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Assignor/Grantor.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

South Carolina Public Service Authority (Assignor)

By: _____
Name: _____
Title: _____

SWORN to and subscribed before me this
_____ day of _____ 20__.

Notary Public for South Carolina
My Commission Expires: _____
Notary (printed name): _____

EXHIBIT G

FORM OF CENTRAL PPA

[Please see Exhibit C.2 of this Report]

EXHIBIT H

FORM OF OMNIBUS ASSIGNMENT OF EASEMENTS

[Attached]

execution and delivery of this Assignment by Assignee is a condition to the obligations of Assignor to consummate, the transactions contemplated by the Asset Purchase Agreement; and

WHEREAS, the Parties desire to record this Assignment to document the assignment of Assignor's Easements to Assignee.

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants set forth in the Asset Purchase Agreement and hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Assignment. Assignor hereby conveys, transfers and assigns unto Assignee, its successors and assigns, all right, title and interest of Assignor, in, to and under the Easements.

2. Scope of Easements. This assignment does not change the scope of the Easements or in any way alter the burden to the servient estate.

3. Restricted Easements. Notwithstanding the foregoing, if the consent of any third party is required in order to assign any Easements and such consent has not been obtained and as a result thereof Assignee shall be prevented by such third party from receiving a particular Easement, or if any attempted assignment would adversely affect any Easements such that Assignee would not, in fact, receive all the rights and benefits with respect to such Easements (in either case the "**Restricted Easements**"), such Restricted Easements shall not be hereby assigned but instead shall be retained and held by Assignor pursuant to Section 7.4 of the Asset Purchase Agreement.

4. Assumption. In consideration of the foregoing Assignment, Assignee hereby accepts this Assignment and hereby assumes and agrees to perform and comply with all the covenants, conditions, agreements, and obligations of Assignor under the Easements from and after the date hereof.

5. Additional Assignments. This Assignment is in addition to, and not in lieu of, any other assignment, transfer or conveyance by Assignor to Assignee on or about the date hereof.

6. Excluded Assets and Excluded Liabilities Not Transferred or Assumed. Notwithstanding Section 1 or Section 4 of this Assignment, nothing expressed or implied in this Assignment is intended to effect, and nothing expressed or implied in this Assignment shall constitute or be deemed to be, (a) an assignment, sale, conveyance, transfer, or delivery to Assignee of any Excluded Asset, or (b) an assumption by Assignee or its Affiliates (including Assignee Parent) of any Excluded Liability.

7. No Warranties of Title. Assignee understands and agrees that Assignor's assignment of Assignor's right, title, and interest in, to and under the Easements is AS IS and without any warranties of title to the real property to which the applicable Easement applies (such real property, the "**Easement Premises**") and is subject to all matters of public record affecting the Easement Premises and the Easements.

8. Conflict with Asset Purchase Agreement. Each Party, by its execution of this Assignment, hereby acknowledges and agrees that neither the representations and warranties nor the rights, remedies, or obligations of any party under the Asset Purchase Agreement shall be deemed to be enlarged, modified, or altered in any way by this Assignment. In the event of a conflict between the terms and provisions of this Assignment and the Asset Purchase Agreement, the terms and provisions of the Asset Purchase Agreement shall govern and control.

9. Further Assurances. Each Party hereby covenants and agrees to, at any time and from time to time after the Effective Time and without further consideration, execute and deliver such further instruments of conveyance and transfer (or instruments of assumption) and take such additional action as the other Party may reasonably request to effect, consummate, confirm, or evidence the assignment and transfer of the Easements or the assumption of the Easements or to otherwise effectuate the provisions and purposes of this Assignment. To the extent that Assignor has the actual authority to do so, Assignor hereby authorizes Assignee to take any appropriate action to protect the right, title, and interest in, to, and under the Easements, in the name of Assignor, Assignee, or any other name (for the benefit of Assignee and its successors and assigns), against each and every Person or Persons whomsoever claiming or asserting any claim against any or all of the same.

10. Amendment; Waiver. This Assignment may be amended, modified, or supplemented only by written agreement of Assignor and Assignee. Any failure of either Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

11. Successors and Assigns; No Third Party Beneficiaries. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Nothing in this Assignment is intended to or shall be deemed to confer any rights or remedies upon any Person other than the Parties.

12. Severability. Any term or provision of this Assignment that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

13. Counterparts. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument).

14. Governing Law. This Assignment (as well as any claim or controversy arising out of or relating to this Assignment or the transactions contemplated hereby) shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to the conflicts of laws rules thereof that would otherwise require the laws of another jurisdiction to apply.

15. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Assignment, and, in the event an ambiguity or question of intent or interpretation arises, this Assignment shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Assignment. The division of this Assignment into sections, and the insertion of headings, are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Assignment. For purposes of this Assignment (including the Recitals and Exhibits hereto), (a) the words “hereby”, “herein”, “hereinafter”, “hereof”, and “hereunder” and words of similar import refer to this Assignment (including the Exhibits to this Assignment) as a whole and not merely to a subdivision in which such words appear, (b) the word “including” or any variation thereof means “including, without limitation” and does not limit any general statement that it follows to the specific or similar items or matters immediately following it, (c) the word “or” shall be disjunctive but not exclusive, and (d) the word “will” shall have the same meaning as the word “shall”.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the date first written above.

WITNESSED:

South Carolina Public Service Authority

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

)

COUNTY OF _____)

I, _____, Notary Public for the State of _____, do hereby certify that _____, the _____ of the South Carolina Public Service Authority, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn to and subscribed before me this _____ day of _____, 20__.

_____(L.S.)

Notary Public, State of _____

My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned has caused this Assignment to be executed as of the date first written above.

WITNESSED:

[Assignee]

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

STATE OF _____)

)

COUNTY OF _____)

I, _____, Notary Public for the State of _____, do hereby certify that _____, the _____ of [Assignee], personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Sworn to and subscribed before me this _____ day of _____, 20__.

_____(L.S.)

Notary Public, State of _____

My Commission Expires: _____

STATE OF _____)
COUNTY OF _____)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The easements being transferred are transferred by the South Carolina Public Service Authority to [Assignee] on _____, 20__.
3. Check one of the following: The deed is
 - (a) ___ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) ___ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) X exempt from the deed recording fee pursuant to S.C. Code Section 58-31-800(B)(3).

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ___ or No X

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

- (a) ___ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of _____.
- (b) ___ The fee is computed on the fair market value of the realty which is _____.
- (c) ___ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ___ or No ___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

- (a) Place the amount listed in item 4 above here: \$ _____
- (b) Place the amount listed in item 5 above here: \$ _____ (If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: \$ _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Assignor/Grantor.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

South Carolina Public Service Authority (Assignor)

By: _____
Name: _____
Title: _____

SWORN to and subscribed before me this
____ day of _____ 20__.

Notary Public for South Carolina
My Commission Expires: _____
Notary (printed name): _____

EXHIBIT I

PSCSC APPROVALS

[Attached]

EXHIBIT I

PSCSC APPROVALS

Closing is conditioned upon and shall not occur until Buyer has delivered to the Director of the Department of Administration its written certification that Buyer, in its discretion, accepts as sufficiently final and binding and as sufficiently compliant with the terms of the Agreement, the following Orders and approvals from the PSCSC consistent with the mandates and requirements of the Enabling Legislation. In accordance with the requirements of the Omnibus Initial Proceeding provided in Section 58-31-730 of the Enabling Legislation, the PSCSC Approvals will include:

- A. Certificate of public convenience and necessity authorizing Buyer or Buyer Subsidiary (“**Buyer Utility**”), to operate as a certificated electrical utility in accordance with the terms and requirements of Section 58-31-740 of the Enabling Legislation.
- B. Certificate of public convenience and necessity confirming Buyer Utility’s service territory and electric service rights and obligations within that service territory in accordance with the terms and requirements of Section 58-31-750 of the Enabling Legislation.
- C. Certificates of public convenience and necessity affirming the siting, construction, ownership, and operation of approximately 800 megawatts of solar electrical generation facilities, approximately 1,250 megawatts of natural gas generation, and approximately 50 megawatts of battery storage facilities, and the addition of approximately 300 megawatts of capacity to the existing Rainey generation station through technology upgrades, as provided in Section 58-31-760 of the Enabling Legislation.
- D. Order confirming the valuation of the electric assets and liabilities acquired by Buyer Utility as provided in Section 58-31-770 of the Enabling Legislation.
- E. Order(s) approving initial rates, service rules, regulations, and tariffs to be implemented during the Rate Freeze Period (as defined below) as provided in Section 58-31-780 of the Enabling Legislation, including:
 1. Affirming that current and former wholesale and retail customers will be provided an aggregate refund totaling \$541,000,000 in accordance with the terms and requirements of Section 58-31-780(A) of the Enabling Legislation.
 2. Affirming that current wholesale and retail customers will be provided an aggregate refund totaling \$400,000,000 in accordance with the terms and requirements of Section 59-31-780(A) of the Enabling Legislation.
 3. Affirming that initial retail rates will be frozen for a 48-month period effective for billing periods beginning 90 days after the Closing Date (“**Rate Freeze Period**”) in accordance with the terms and requirements of Sections 58-31-710(39) and 58-31-780 of the Enabling Legislation.

4. Affirming that, in accordance with the terms and requirements of Section 58-31-780(B) of the Enabling Legislation, Buyer Utility's initial schedule of rates and charges will be the existing rates and charges imposed by Seller on October 1, 2019, subject to the following adjustments to be applied through Buyer Utility's fuel adjustment clause included on retail customer bills:
 - i. During the Rate Freeze Period, the rates for Buyer Utility's fuel adjustment clause will initially be set as provided in Section 58-31-780(B)(2)(a) of the Enabling Legislation;
 - ii. In accordance with the terms and requirements of Section 58-31-780(B)(2)(b) of the Enabling Legislation, Buyer Utility's initial fuel adjustment clause will be adjusted, positive or negative, to reflect changes in interest rates between January 27, 2020 and the Execution Date, which adjustment will be calculated according to the formulas set forth in Attachment A to this Exhibit I;
 - iii. In accordance with the terms and requirements of Section 58-31-780(B)(2)(b) of the Enabling Legislation, Buyer Utility's initial fuel adjustment clause will be adjusted, positive or negative, to reflect the difference in the settled monthly forward curve for natural gas between January 27, 2020 and the Closing Date, which adjustment will be calculated according to the formulas set forth in Attachment A to this Exhibit I;
 - iv. In accordance with the terms and requirements of Section 58-31-780(B)(2)(b) of the Enabling Legislation, Buyer Utility's initial fuel adjustment clause will be adjusted, positive or negative, to reflect changes in the coal price and costs for physical delivery, including transportation, of coal between January 27, 2020 and the Closing Date, which adjustment will be calculated according to the formulas set forth in Attachment A to this Exhibit I; and
 - v. In accordance with the terms and requirements of Section 58-31-780(B)(2)(b) of the Enabling Legislation, Buyer Utility's initial fuel adjustment clause will be adjusted to reflect a loss in total system load attributable to non-Central wholesale customers that leave the Sellers's system on or before the Closing Date and do not become customers of Buyer Utility.
- F. Order(s) confirming that Buyer Utility may defer certain costs during the Rate Freeze Period in accordance with the terms and requirements of Section 58-31-780(C)(2) of the Enabling Legislation; and that Buyer Utility may implement a rider to recover certain costs incurred during the Rate Freeze Period in accordance with the terms and requirements of Section 58-31-780(C)(3).
- G. Accounting order(s) implementing and affirming certain ratemaking and regulatory outcomes as provided in Sections 58-31-780(C) and (E) of the Enabling Legislation.
- H. Financing orders implementing securitizations in accordance with the terms and requirements of Section 58-31-840 of the Enabling Legislation.

ATTACHMENT A
TO EXHIBIT I
Rate Freeze Adjustment Mechanisms

Natural Gas Price Adjustment

The rates will be based upon coal and gas commodity prices as of January 27, 2020.

An adjustment mechanism will account for the changes in forward gas prices between January 27, 2020 and the Closing Date. The formula for this adjustment mechanism will be based upon modeled gas consumption volumes and publicly traded NYMEX Henry Hub gas forward contracts.

This formula defines the overall average fuel surcharge adjustment across all applicable tariff schedules.

The gas fuel surcharge, in cents per kilowatt-hour, shall be calculated as follows:

$$\Delta r_g = \frac{(\sum_{n \in N} f_n'' g_n - \sum_{n \in N} f_n' g_n) \cdot 100}{\sum_{n \in N} s_n}$$

Where:

n ∈ *N* where *N* is the first full 48 calendar months following the Closing Date

s_n = forecast total system electricity sales in month *n* in kWh

f_n' = monthly forward curve NYMEX Henry Hub gas price in month *n* as of 1/27/2020 in \$/MMbtu¹⁴

f_n'' = monthly forward NYMEX Henry Hub gas price in month *n* as of closing date in \$/MMbtu

g_n = projected generation gas consumption in month *n* in MMbtu

Δr_g = fuel surcharge adjustment assessed across Rate Freeze Period in ¢/kWh

An illustrative calculation has been provided in the table below:

	2021	2022	2023	2024	Total
Bid gas prices (\$/MMbtu)	2.35	2.38	2.43	2.47	
+5% change in gas prices (\$/MMbtu)	0.12	0.12	0.12	0.12	
Natural gas volume (MMbtu)	118,365,239	122,539,729	120,955,841	125,345,379	
Change in total fuel cost	13,907,916	14,582,228	14,696,135	15,480,154	58,666,432 (ΔR_{avg} * 4)

¹⁴ CME Group, Henry Hub Natural Gas Futures Settlements as of January 27, 2020

(\$)					
Energy sales forecast (kWh)	2.44×10^{10}	2.46×10^{10}	2.48×10^{10}	2.48×10^{10}	9.86×10^{10}
Average fuel surcharge adjustment (¢/kWh)	0.059	0.059	0.059	0.059	0.059 (Δr_g)

The set of baseline forward gas prices (the elements f'_n) as of 1/27/2020 are provided in the table below. Note that $n = 1$ will be the first full calendar month following the Closing Date (i.e., if the transaction closed on 1/15/2021, month $n = 1$ would be Feb 2021).

Month	Henry Hub Forward Settlement Price as of 1/27/2020 (\$ per MMBtu)
Jan 2021	2.567
Feb 2021	2.532
Mar 2021	2.433
Apr 2021	2.217
May 2021	2.198
Jun 2021	2.236
Jul 2021	2.274
Aug 2021	2.280
Sep 2021	2.265
Oct 2021	2.287
Nov 2021	2.352
Dec 2021	2.523
Jan 2022	2.638
Feb 2022	2.606
Mar 2022	2.477
Apr 2022	2.232
May 2022	2.207
Jun 2022	2.250
Jul 2022	2.296

Aug 2022	2.306
Sep 2022	2.296
Oct 2022	2.321
Nov 2022	2.389
Dec 2022	2.559
Jan 2023	2.683
Feb 2023	2.643
Mar 2023	2.516
Apr 2023	2.266
May 2023	2.253
Jun 2023	2.295
Jul 2023	2.338
Aug 2023	2.354
Sep 2023	2.348
Oct 2023	2.378
Nov 2023	2.452
Dec 2023	2.631
Jan 2024	2.755
Feb 2024	2.719
Mar 2024	2.594
Apr 2024	2.334
May 2024	2.314
Jun 2024	2.344
Jul 2024	2.374
Aug 2024	2.382
Sep 2024	2.375
Oct 2024	2.398
Nov 2024	2.460
Dec 2024	2.640
Jan 2025	2.761
Feb 2025	2.731
Mar 2025	2.618

Apr 2025	2.358
May 2025	2.346
Jun 2025	2.376
Jul 2025	2.408
Aug 2025	2.415
Sep 2025	2.409
Oct 2025	2.433
Nov 2025	2.495
Dec 2025	2.657

The set of modeled monthly gas consumption volumes (the elements g_n) by month are provided in the table below. These are the volumes that would be used assuming the transaction is signed in June of 2020 and closes in January of 2021.

Month	Modeled Generation Gas Consumption (MMbtu)
Jan 2021	6,074,433
Feb 2021	6,979,927
Mar 2021	8,890,470
Apr 2021	10,655,632
May 2021	10,961,964
Jun 2021	10,873,395
Jul 2021	10,802,870
Aug 2021	10,923,541
Sep 2021	10,740,314
Oct 2021	11,582,024
Nov 2021	11,537,265
Dec 2021	8,343,405
Jan 2022	6,357,788
Feb 2022	7,269,598
Mar 2022	10,329,456
Apr 2022	10,824,279
May 2022	11,353,493
Jun 2022	10,820,918

Jul 2022	11,711,491
Aug 2022	11,524,838
Sep 2022	10,780,628
Oct 2022	11,244,010
Nov 2022	10,973,950
Dec 2022	9,349,279
Jan 2023	8,722,736
Feb 2023	6,963,401
Mar 2023	8,999,179
Apr 2023	10,528,833
May 2023	11,355,157
Jun 2023	11,292,349
Jul 2023	11,700,940
Aug 2023	11,164,466
Sep 2023	9,542,443
Oct 2023	9,748,218
Nov 2023	9,919,459
Dec 2023	11,018,660
Jan 2024	9,563,145
Feb 2024	7,952,706
Mar 2024	9,180,684
Apr 2024	7,787,169
May 2024	9,823,503
Jun 2024	12,508,617
Jul 2024	13,855,951
Aug 2024	13,130,826
Sep 2024	11,510,553
Oct 2024	10,196,380
Nov 2024	10,526,717
Dec 2024	9,309,127
Jan 2025	10,026,962
Feb 2025	8,822,122
Mar 2025	9,972,604

Apr 2025	9,323,929
May 2025	10,430,721
Jun 2025	12,352,515
Jul 2025	13,763,156
Aug 2025	13,114,838
Sep 2025	11,062,674
Oct 2025	9,787,542
Nov 2025	9,973,352
Dec 2025	6,769,012

Coal Price Adjustment

An adjustment mechanism will account for the difference between estimated coal costs provided by Seller prior to the Buyer's Bid and the forward contracted cost of delivered coal at Closing. The formula for this adjustment mechanism will be based upon modeled coal consumption volumes and contract prices executed at Closing.

The formula will define the overall average fuel surcharge adjustment across all applicable tariff schedules.

The coal fuel surcharge, in cents per kilowatt-hour, shall be calculated as follows:

$$\Delta r_c = \frac{(\sum_{n \in N} f_n'' c_n - \sum_{n \in N} f_n' c_n) \cdot 100}{\sum_{n \in N} s_n}$$

Where:

$n \in N$ where N is the first 48 full calendar months following the Closing Date

s_n = forecast total system electricity sales in year n in kWh

f_n' = modeled monthly weighted average delivered coal price in month n as of bid submission in \$/MMbtu

f_n'' = monthly weighted average delivered coal price, contracted at Closing, in month n as of Closing Date in \$/MMbtu

c_n = modeled coal purchases in month n required to replenish burned coal in year n

Δr_c = average fuel surcharge adjustment assessed across Rate Freeze Period in ¢/kWh

An illustrative calculation has been provided in the table below:

	2021	2022	2023	2024	2025
Bid coal prices (\$/MMbtu)	3.16	3.11	3.15	3.23	
+5% change in coal prices (\$/MMbtu)	0.16	0.16	0.16	0.16	
Coal volume (MMbtu)	88,012,743	73,800,577	69,541,200	18,571,384	
Change in total fuel cost (\$)	13,906,013	11,457,540	10,959,693	3,001,136	39,324,382 ($\Delta R_{avg} * 4$)
Energy sales forecast (kWh)	2.44×10^{10}	2.46×10^{10}	2.48×10^{10}	2.48×10^{10}	9.86×10^{10}
Average fuel surcharge adjustment (¢/kWh)	0.040	0.040	0.040	0.040	0.040 (Δr_g)

The set of baseline forward coal prices (the elements f'_n) provided in the DOA and applied in Buyer's dispatch model are provided in the table below.

Month	Department Model Coal Price (\$/MMbtu) ¹⁵
Jan 2021	\$3.160
Feb 2021	\$3.160
Mar 2021	\$3.160
Apr 2021	\$3.160
May 2021	\$3.160
Jun 2021	\$3.160
Jul 2021	\$3.160
Aug 2021	\$3.160
Sep 2021	\$3.160
Oct 2021	\$3.160
Nov 2021	\$3.160
Dec 2021	\$3.160
Jan 2022	\$3.105
Feb 2022	\$3.105
Mar 2022	\$3.105
Apr 2022	\$3.105
May 2022	\$3.105
Jun 2022	\$3.105
Jul 2022	\$3.105
Aug 2022	\$3.105
Sep 2022	\$3.105
Oct 2022	\$3.105
Nov 2022	\$3.105
Dec 2022	\$3.105
Jan 2023	\$3.152
Feb 2023	\$3.152
Mar 2023	\$3.152
Apr 2023	\$3.152

¹⁵ Coal prices from Santee Cooper revenue requirement model; data room document 12.1.9

May 2023	\$3.152
Jun 2023	\$3.152
Jul 2023	\$3.152
Aug 2023	\$3.152
Sep 2023	\$3.152
Oct 2023	\$3.152
Nov 2023	\$3.152
Dec 2023	\$3.152
Jan 2024	\$3.232
Feb 2024	\$3.232
Mar 2024	\$3.232
Apr 2024	\$3.232
May 2024	\$3.232
Jun 2024	\$3.232
Jul 2024	\$3.232
Aug 2024	\$3.232
Sep 2024	\$3.232
Oct 2024	\$3.232
Nov 2024	\$3.232
Dec 2024	\$3.232
Jan 2025	\$3.330
Feb 2025	\$3.330
Mar 2025	\$3.330
Apr 2025	\$3.330
May 2025	\$3.330
Jun 2025	\$3.330
Jul 2025	\$3.330
Aug 2025	\$3.330
Sep 2025	\$3.330
Oct 2025	\$3.330
Nov 2025	\$3.330
Dec 2025	\$3.330

The set of modeled coal consumption volumes (the elements c_n) by month are provided in the table below.

Month	Modeled Generation Coal Consumption (MMbtu)
Jan 2021	10,835,564
Feb 2021	10,204,357
Mar 2021	8,653,819
Apr 2021	3,240,775
May 2021	4,581,551
Jun 2021	8,056,495
Jul 2021	9,688,323
Aug 2021	9,176,519
Sep 2021	7,274,119
Oct 2021	5,674,804
Nov 2021	5,259,997
Dec 2021	5,366,420
Jan 2022	9,433,834
Feb 2022	6,916,650
Mar 2022	4,642,266
Apr 2022	3,268,493
May 2022	4,622,358
Jun 2022	6,459,622
Jul 2022	9,864,214
Aug 2022	8,103,177
Sep 2022	5,967,538
Oct 2022	4,425,194
Nov 2022	3,624,699
Dec 2022	6,472,532
Jan 2023	9,709,493
Feb 2023	10,640,317
Mar 2023	3,558,828
Apr 2023	3,261,103
May 2023	4,806,548
Jun 2023	7,715,303
Jul 2023	9,118,858
Aug 2023	7,147,451
Sep 2023	6,745,539

Oct 2023	3,080,218
Nov 2023	3,599,743
Dec 2023	157,799
Jan 2024	5,382,004
Feb 2024	4,525,707
Mar 2024	298,113
Apr 2024	784,545
May 2024	-
Jun 2024	987,790
Jul 2024	2,703,127
Aug 2024	1,672,586
Sep 2024	269,126
Oct 2024	-
Nov 2024	-
Dec 2024	1,948,386
Jan 2025	2,779,926
Feb 2025	804,984
Mar 2025	713,377
Apr 2025	723,970
May 2025	-
Jun 2025	340,710
Jul 2025	2,292,791
Aug 2025	1,070,225
Sep 2025	335,165
Oct 2025	258,359
Nov 2025	-
Dec 2025	5,880,717

Interest Rate Adjustment

Utility interest rate fluctuations between January 27, 2020 and the Execution Date will be managed through a rate adjustment mechanism which will account for the changes in 10-year U.S. Treasury yields between January 27, 2020 and the Execution Date. The risk associated with fluctuations between the Execution Date and the Closing Date will be borne by Buyer and is not covered by this adjustment. The formula for the rate adjustment is presented below.

The formula defines the overall average fuel surcharge adjustment across all applicable tariff schedules.

The utility interest rate fuel surcharge, in cents per kilowatt hour shall be calculated as:

$$\Delta r_i = \frac{D \cdot (r_{t_s} - r_{t_b}) \cdot 4 \cdot 100}{S_f}$$

Where:

D = total utility debt issued at close \cong \$2,670 million

S_f = forecast total system electricity sales in the first 48 months following the Closing Date in kWh

r_{t_b} = 10 – year U.S. Treasury Rate assumed in Buyer's Bid = 1.61%¹⁶

r_{t_s} = 10 – year U.S. Treasury Rate on the Execution Date

Δr_i = average fuel surcharge adjustment assessed across Rate Freeze Period in ¢/kWh

¹⁶ U.S. Department of Treasury 10-year Treasury Yield Curve, January 27, 2020

EXHIBIT J

FORM OF PURCHASE PRICE ESCROW AGREEMENT

[To Come]

EXHIBIT K

FORM OF CIA TERMINATION AGREEMENT

[Attached]

TERMINATION AND RELEASE AGREEMENT

This Termination and Release Agreement (this “**Agreement**”), dated as of [●] [●], 2020 (the “**Execution Date**”), is by and among South Carolina Public Service Authority, a component unit of the State of South Carolina (the “**Authority**”), Central Electric Power Cooperative, Inc., a cooperative corporation organized and existing under the laws of the State of South Carolina (“**Central**”), and, for the limited purposes expressly specified herein, NextEra Energy, Inc., a Florida corporation (“**NextEra**”). Authority and Central are sometimes referred to individually as a “**Party**” and jointly as the “**Parties**.”

RECITALS

WHEREAS, Authority and Central are parties to that certain Power Systems Coordination and Integration Agreement, dated as of December 31, 1980 (as amended, restated or modified from time-to-time, the “**Coordination Agreement**”);

WHEREAS, Authority and Central are parties to the lease agreements identified on Exhibit A hereto (collectively, the “**Legacy Lease Agreements**”);

WHEREAS, pursuant to the Legacy Lease Agreements and the Coordination Agreement, Authority has the option (the “**Option**”) to acquire from Central certain property (real or personal) that is the subject of the Legacy Lease Agreements (which option was exercised on [●]) and for which title has not yet been conveyed or transferred from Central to Authority (the “**Legacy Leased Properties**”);

WHEREAS, NextEra and Authority are parties to an Asset Purchase Agreement, dated as of [●] [●], 2020 (the “**Purchase Agreement**”), pursuant to which upon the terms and subject to the conditions specified therein Authority shall sell, assign, convey, transfer, and deliver to NextEra (and/or one or more controlled subsidiaries of NextEra as specified therein) the Purchased Assets (as defined in the Purchase Agreement), including Authority’s electric power system;

WHEREAS, Buyer Subsidiary (as defined in the Purchase Agreement) and Central are parties to a Power Purchase Agreement, dated as of [●] [●], 2020 (the “**Power Purchase Agreement**”), pursuant to which upon the terms and subject to the conditions specified therein, Buyer Subsidiary shall, among other things, sell and deliver and Central shall, among other things, purchase and receive energy and capacity; and

WHEREAS, the Parties intend to terminate each Party’s rights and obligations with respect to the Coordination Agreement (the “**Termination**”) and provide for the transfer to Buyer Subsidiary of the Legacy Leased Properties, including all rights to acquire the Legacy Leased Properties and any such right arising under the Coordination Agreement, subject to satisfaction of the conditions precedent set forth in this Termination Agreement;

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Termination Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Authority and Central hereby agree to terminate the Coordination Agreement in accordance with the following terms and conditions:

TERMS

1. Termination. Notwithstanding anything to the contrary in the Coordination Agreement, except as specifically set forth in Section 3, all of the rights and obligations of each Party under the Coordination Agreement are hereby terminated effective concurrently with the last to occur of each of the following (the “**Termination Date**”),

- (a) the Closing (as defined in the Purchase Agreement, the “**Closing**”) under the Purchase Agreement; and
- (b) the Commencement Date (as defined in the Power Purchase Agreement, the “**Commencement Date**”).

From and after the Termination Date, except as specifically provided herein, the Coordination Agreement will be of no further force or effect with respect to the parties thereto, and the rights and obligations of the parties thereunder shall terminate.

2. Mutual Release. Each of the following subsections (a) through (d) is conditioned upon the occurrence of the Termination Date, and effective as of the Termination Date.

(a) Authority, on behalf of itself and its respective present and former parents, subsidiaries, affiliates, officers, directors, shareholders, members, successors and assigns (collectively, the “**Authority Releasors**”), hereby releases, waives and forever discharges Central and its respective present and former members, agents, representatives, permitted successors and permitted assigns (collectively, the “**Central Releasees**”) of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, the “**Authority Claims**”), which any of such Authority Releasors ever had, now have, or hereafter can, shall, or may have against any of such Central Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the Termination Date arising out of or relating to the Coordination Agreement, except for any Authority Claims relating to rights and obligations preserved by, created by or otherwise arising out of this Agreement.

(b) Central, on behalf of itself and its respective present and former members, successors and assigns (collectively, the “**Central Releasors**” and, together with Authority Releasors, the “**Releasors**”) hereby releases, waives and forever discharges Authority and its respective present and former, direct and indirect, parents, subsidiaries, affiliates, employees, officers, directors, shareholders, members agents, representatives, permitted successors and permitted assigns (collectively, the “**Authority Releasees**” and, together with the Central Releasees, the “**Releasees**”) of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every

kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, the “**Central Claims**” and, together with Authority Claims, the “**Claims**”), which any of such Central Releasors ever had, now have, or hereafter can, shall, or may have against any of such Authority Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the Termination Date arising out of or relating to the Coordination Agreement, except for any Central Claims relating to rights and obligations preserved by, created by or otherwise arising out of this Agreement.

(c) Each Party, on behalf of itself and each of its respective Releasors, understands that it may later discover Claims or facts that may be different than, or in addition to, those that it or any other Releasor now knows or believes to exist regarding the subject matter of the release contained in this Section 2, and which, if known at the time of signing this Agreement, may have materially affected this Agreement and such Party’s decision to enter into it and grant the release contained in this Section 2. Nevertheless, except as otherwise expressly set forth herein, the Releasors intend to fully, finally and forever settle and release all Claims that now exist, may exist or previously existed, as set forth in the release contained in this Section 2, whether known or unknown, foreseen or unforeseen, or suspected or unsuspected, and the release given herein is and will remain in effect as a complete release, notwithstanding the discovery or existence of such additional or different facts. The Releasors hereby waive any right or Claim that might arise as a result of such different or additional Claims or facts. The Releasors expressly, knowingly and intentionally waive any and all rights, benefits, and protections of any state or federal statute or common law principle limiting the scope of a general release.

(d) The Parties acknowledge and agree that all liabilities and obligations of Authority under or arising out of the Coordination Agreement and that are not released under this Agreement will remain the sole liabilities and obligations of Authority after the Closing and neither NextEra nor Buyer Subsidiary are assuming any of such liabilities or obligations in any respect whatsoever. Accordingly, Central agrees that it shall not seek any recourse with respect to such liabilities and obligations, no matter when or how arising, from NextEra, Buyer Subsidiary or any of their respective affiliates. NextEra, as a successor in interest of Authority, agrees that it shall not seek and shall not permit Buyer Subsidiary to seek any recourse with respect to such liabilities and obligations, no matter when or how arising, from Central in any respect whatsoever.

3. Covenants.

(a) Final Accounting. Applicable provisions of the Coordination Agreement shall continue in effect for one hundred eighty (180) days following the Termination Date solely to the extent necessary to provide for final accounting, billing, billing adjustments, resolution of any billing disputes, set-off, or final payments. Upon the Termination Date, any monies, damages, penalties or other charges due and owing under the Coordination Agreement shall be paid, any corrections or adjustments to payments previously made shall be determined, and any refunds due shall be made, as soon as practicable.

(b) Existing Leases; Legacy Leased Properties.

(i) As of the Termination Date, Central waives its right, pursuant to Article XVI, Section F (Sale or Leasing of Authority System) of the Coordination Agreement, to terminate any existing leases of Central facilities to Authority, including the Legacy Lease Agreements set forth on Exhibit A, hereof.

(ii) On or prior to the Termination Date, Central and Authority shall use commercially reasonable efforts to effect the transfer and conveyance to Authority of some or all of the Legacy Leased Properties pursuant to, and as contemplated by, the Option. Such transferred Legacy Leased Properties will be freely transferable from Authority to NextEra or Buyer Subsidiary (as applicable) in connection with the Closing. If, on or prior to the Termination Date, all of the Legacy Leased Properties have not been transferred and conveyed to Authority or for which title to such Legacy Lease Properties have not been transferred or conveyed from Central to Authority, then, notwithstanding the termination of the Coordination Agreement, the Option, including for the avoidance of doubt any rights to acquire such remaining Legacy Leased Properties arising under the Coordination Agreement, will be preserved and transferred to NextEra or Buyer Subsidiary, and Central and NextEra or Buyer Subsidiary (as applicable) shall effect the transfer and conveyance such remaining Legacy Leased Properties to NextEra or Buyer Subsidiary (as applicable) as soon as reasonably practicable.

4. Representations and Warranties. Each Party hereby represents and warrants to the other Party and NextEra and NextEra hereby represents and warrants to the each of the Parties that:

(a) It has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder.

(b) The execution of this Agreement by the individual whose signature is set forth at the end of this Agreement on behalf of such Party, and the delivery of this Agreement by such Party, have been duly authorized by all necessary action on the part of such Party.

(c) This Agreement has been executed and delivered by such Party and (assuming due authorization, execution, and delivery by the other Party hereto) constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

(d) It (i) knows of no Claims against a Party relating to or arising out of the Coordination Agreement that are not covered by the release contained in Section 2, and (ii) as applicable solely to each Party, has neither assigned nor transferred any of the Claims released herein to any person or entity and no person or entity has subrogated to or has any interest or rights in any Claims.

EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 4, (A) NO PARTY HERETO, NEXTERA, AND NOT ANY PERSON ON SUCH PARTY'S BEHALF OR ON NEXTERA'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, EITHER ORAL OR WRITTEN, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE

EXPRESSLY DISCLAIMED, AND (B) EACH PARTY AND NEXTERA HERETO ACKNOWLEDGES THAT, IN ENTERING INTO THIS AGREEMENT, IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY A PARTY OR NEXTERA, OR ANY OTHER PERSON ON SUCH PARTY'S OR NEXTERA'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 4.

5. Miscellaneous.

(a) All notices, requests, consents, claims, demands, waivers, summons and other legal process, and other similar types of communications hereunder (each, a "**Notice**") must be in writing and addressed to the relevant Party at the address set forth in the Coordination Agreement (or to such other address that may be designated by the receiving Party or NextEra from time to time).

(b) This Agreement, including its existence, validity, construction and operating effect, and the rights of each of the Parties and NextEra, shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of conflicts of law thereof that may require the application of the law of another jurisdiction. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY FINANCING, THE ANCILLARY AGREEMENTS, ANY CERTIFICATE, INSTRUMENT, OR OTHER DOCUMENT EXECUTED OR DELIVERED IN CONNECTION IN HEREWITH, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY.

(c) This Agreement and each of the terms and provisions hereof may only be amended, modified, waived or supplemented by an agreement in writing signed by each Party and NextEra.

(d) No Party may assign, transfer or delegate any or all of its rights or obligations under this Agreement without the prior written consent of the other Parties; *provided, however*, that either Party may assign this Agreement to a successor-in-interest by consolidation, merger or operation of law or to a purchaser of all or substantially all of the Party's assets. No assignment will relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing will be null and void. This Agreement will inure to the benefit of and be binding upon each of the Parties and NextEra and each of their respective permitted successors and permitted assigns.

(e) This Agreement may be executed in counterparts, each of which is deemed an original, but all of which constitutes one and the same agreement. Delivery of an executed counterpart of this Agreement electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Agreement.

(f) For purposes of this Agreement, (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (iv) words denoting the singular have a comparable meaning when used

in the plural, and vice-versa; and (v) words denoting any gender include all genders. This Agreement was drafted without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

(g) The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

(h) If any provision contained in this Agreement shall for any reason be held to be invalid, illegal, void or unenforceable in any respect, such provision shall be deemed modified so as to constitute a provision conforming as nearly as possible to the invalid, illegal, void or unenforceable provision while still remaining valid and enforceable and the remaining terms or provisions contained in this Agreement shall not be affected thereby.

(i) No failure on the part of the Parties or NextEra hereto to exercise, and no delay in exercising, any right, power or remedy created under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy by such Party or NextEra preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by the Parties or NextEra hereto to any breach of, or default in, any term or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition of this Agreement. The terms and provisions of this Agreement, whether individually or in their entirety, may only be waived in writing and signed by the entity against whom or which the enforcement of such waiver is sought. No right, remedy or election given by any term of this Agreement or made by any party shall be deemed exclusive, but shall be cumulative with all other rights, remedies and elections available at law or in equity.

(j) From and after the date of execution of this Agreement, the Parties and NextEra agree to, upon the request of the other Party or NextEra, execute and deliver to the other Party or NextEra any further documents, certificates or instruments, and to perform any further acts as may be required or reasonably requested to complete or evidence the transaction contemplated by this Agreement.

(k) This Agreement benefits solely the Parties hereto and, as provided, NextEra, and each of their respective permitted successors and permitted assigns. Nothing in this Agreement, express or implied, confers on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. The Parties hereby (i) agree that NextEra and Buyer Subsidiary are entitled to the benefit of the releases, waivers and discharges set forth in Section 2, and (ii) designate NextEra and Buyer Subsidiary as third-party beneficiaries of Section 2, each having the right to enforce Section 2 against the Releasers.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

By: _____

Name:

Title:

CENTRAL ELECTRIC POWER COOPERATIVE, INC.

By: _____

Name:

Title:

NEXTERA ENERGY, INC. (solely for the limited purposes expressly set forth herein)

By: _____

Name:

Title:

Exhibit A

Legacy Lease Agreements

1. Contract Obligation dated January 1, 1950, by and between Authority and Central, as amended.
2. Lease Contract dated October 22, 1952, by and between Authority and Central, as amended.
3. D Lease Contract dated April 25, 1963, as amended by Agreement and Lease made as of September 23, 1968 (D&E Lease Contract E Amendment to D Lease Contract), by Agreement and Lease made as of April 27, 1970 (F Amendment to D&E Lease Contract), by Agreement and Lease made as of September 20, 1973 (G Amendment to D, E & F Lease Contract), by Agreement and Lease made as of October 20, 1975 (H Amendment to D, E, F & G Lease Contract), by Agreement and Lease made as of April 27, 1976 (K Amendment to D, E, F, G & H Lease Contract), and by Agreement and Lease made as of December 22, 1976 (L Amendment to D, E, F, G, H & K Lease Contract).

EXHIBIT L-1

NET WORKING CAPITAL MODIFICATIONS

[Attached]

Accounting Principles for Working Capital Purchase Price Adjustment	
1	Excludes cash and cash equivalents
2	Excludes decommissioning funds
3	Excludes restricted and unrestricted investments
4	Excludes all indebtedness as defined by APA
5	Excludes transactions arising from retained actions Schedule 2.5(f), excluded liabilities Schedule 2.5(a), Other excluded assets Schedule 2.3(s), Other excluded contracts Schedule 2.3(m)
6	Excludes any and all tax obligations or prepaid taxes including but not limited to sales tax, property taxes, Fee in lieu of tax (FILOT), income taxes
7	Excludes all hedge transactions entered into by Seller which positions are to be financially or physically settled prior to close
8	Excludes all benefits obligations of Seller to employees including but not limited to pension, OPEB, medical, workers compensation, vacation, sick pay etc
9	Excludes any severance or employment agreement obligations of Seller to employees
10	Excludes any prepaid insurance or insurance obligations of Seller; all of which are to be cancelled at close
11	Excludes assets or obligations related to VC Summer 2 and 3
12	Statement is to be prepared in accordance with GAAP as modified by the principles herein.
13	Includes customer deposits which is excluded from indebtedness
14	Target working capital cannot be adjusted for excluded items that cannot be known at signing such as employees not transferred. Final working capital will be adjusted to reflect all excluded items known at closing even if not excluded in target calculation.

EXHIBIT L-2

SAMPLE STATEMENT

[Attached]

Target Working Capital Calculation		9/30/2019	30-Sep-19	Exclusions	Acctg Principles Reference	Adjusted
Current Assets						
Unrestricted Cash and Cash Equivalents		\$577,956	\$	(577,956)	1	\$0
Unrestricted Investments		227,070		(227,070)	3	-
Restricted Cash And Cash Equivalents		37,192		(37,192)	1	-
Restricted Investments		147,893		(147,893)	3	-
Receivables		234,094				234,094
Materials Inventory		155,297				155,297
Fuel Inventory						-
Fossil Fuels		140,492				140,492
Nuclear Fuel-Net		81,494				81,494
Interest Receivable		1,917		(1,917)	4	-
Regulatory Assets - Nuclear		78,534		(78,534)	11	-
Prepaid Expenses And Other Current Assets		74,682		(38,383)	7,8,10	36,299
Total Current Assets		1,756,621		(1,108,945)		647,676
Current Liabilities						
Current Portion Of Long-Term Debt		\$86,121		(86,121)	4	\$0
Accrued Interest On Long-Term Debt		109,114		(109,114)	4	-
Revolving Credit Agreement		43,117		(43,117)	4	-
Commercial Paper		164,253		(164,253)	4	-
Accounts Payable		177,140				177,140
Other Current Liabilities		83,168		(29,786)	7,8	53,382
Total Current Liabilities		\$662,913		(432,391)		\$230,522
Net Working Capital		\$1,093,708		(676,554)		\$417,154

Note: Exclusions are based on financial statement detail provided in data room reflecting transactional information for other current assets and other current liabilities

EXHIBIT L-3

CAPEX TABLES

[Attached]

EXHIBIT L-3
CAPEX TABLES¹

2019²

	Oct. 2019	Nov. 2019	Dec. 2019
Monthly Capital	\$37,200	\$37,200	\$37,100
Cumulative Total	\$37,200	\$74,400	\$111,500

2020³

	Jan. 2020	Feb. 2020	March 2020	April 2020	May 2020	June 2020	July 2020	Aug. 2020	Sept. 2020	Oct. 2020	Nov. 2020	Dec. 2020
Monthly Capital	\$21,492	\$23,834	\$24,399	\$24,553	\$22,030	\$21,033	\$21,983	\$19,851	\$19,571	\$22,722	\$20,774	\$19,766
Cumulative Total	\$132,992	\$156,826	\$181,226	\$205,779	\$227,808	\$248,841	\$270,824	\$290,676	\$310,247	\$332,969	\$353,743	\$373,509

2021⁴

	Jan. 2021	Feb. 2021	March 2021	April 2021	May 2021	June 2021	July 2021	Aug. 2021	Sept. 2021	Oct. 2021	Nov. 2021	Dec. 2021
Monthly Capital	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108	\$23,108
Cumulative Total	\$396,617	\$419,725	\$442,833	\$465,941	\$489,049	\$512,157	\$535,265	\$558,373	\$581,481	\$604,589	\$627,697	\$650,805

¹ All figures in thousands (e.g., a reference to "\$37,200" in the tables means \$37,200,000)

² Fourth quarter 2019 per Data Room file 2.2.60. Represents total of 2019 annual budget less amounts spent through September 30, 2019.

³ Full-year 2020 amounts per "2020 Reform Monthly Data" file provided by Gibson Dunn

⁴ Full-year 2021 amounts per Data Room files 12.1.7 and 12.1.8

EXHIBIT M

FORM OF CONFIDENTIALITY AGREEMENT

[To Come]

EXHIBIT N

ENABLING LEGISLATION

[Attached]

A BILL

DIRECTING THE SALE OF CERTAIN ASSETS OF THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY TO AN INVESTOR-OWNED ELECTRICAL UTILITY; PROVIDING FOR THE CERTIFICATION OF SAID ELECTRICAL UTILITY; DETERMINING THE VALUE OF ASSETS PURCHASED BY, AND THE SERVICE TERRITORY, RATE BASE, CURRENT SERVICE RATES AND CHARGES OF, SAID ELECTRICAL UTILITY; AUTHORIZING INVESTMENT BY SAID ELECTRICAL UTILITY IN CLEAN ELECTRIC GENERATION FACILITIES; MAKING FURTHER PROVISION TO ESTABLISH AND ALLOW THE OPERATION OF SAID ELECTRICAL UTILITY TO SERVE THE CUSTOMERS OF THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY; AND DIRECTING THE FUNCTIONS AND PROCEDURES OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA IN THE ESTABLISHMENT OF, TRANSITION OF SERVICE TO, AND INITIAL INVESTMENT IN CLEAN ELECTRIC GENERATION FACILITIES BY, SAID ELECTRICAL UTILITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Findings and Declarations of General Assembly

(1) Pursuant to the Joint Resolution (A 95, R113, H4287) signed by the Governor on May 22, 2019, the General Assembly, after due investigation through its regular and special committees and after full consideration, finds and declares that it is appropriate and in the best interest of the State of South Carolina and the customers of the South Carolina Public Service Authority, to authorize the sale of the electric service assets and the water service assets of the South Carolina Public Service Authority to NextEra Energy, Inc. or the Electrical Utility (as defined below), upon the terms and conditions approved herein, which will eliminate all of the Authority's outstanding indebtedness for borrowed money, including such debt associated with V.C. Summer Nuclear Units 2 and 3, subject to the regulatory oversight of the South Carolina Public Service Commission and the Federal Energy Regulatory Commission.

(2) As used in Sections 1, 8, 9, 10, 11, and 12 of this Act, the following words shall have the following meanings; and capitalized words used therein and not defined below shall have the meanings ascribed thereto in Section 58-31-710 as enacted by Section 2 of this Act.

(a) "Board" means the board of directors that is the governing body of the Authority.

(b) "FERC" means the United States Federal Energy Regulatory Commission.

(3) The General Assembly, after due consideration and debate, passed a Joint Resolution (A 95, R113, H4287) on May 21, 2019, which was signed by the Governor on May 22, 2019. This Joint Resolution established a competitive bidding process to solicit and evaluate proposals designed to improve the efficiency and cost-effectiveness of the services currently

provided by the Authority and select the proposal that is in the best interest of the Authority's customers and the citizens of the State.

(4) Pursuant to the Joint Resolution (A 95, R113, H4287), competitive proposals for the sale, private management, and reform of the Authority were accepted by the South Carolina Department of Administration on November 26, 2019. After review and consultation by the Department of Administration and its outside experts as part of the Joint Resolution process, on February 3, 2020, the Department of Administration presented its recommendations to the General Assembly identifying the best sale proposal, the best management proposal, and the reform proposal submitted by the Authority.

(5) After thorough review and evaluation of the recommendations from the Department of Administration, due consultation with outside experts and the Department of Administration, and the process as established by the Joint Resolution, the General Assembly finds and declares it is in the best interests of the State and its taxpayers and the customers of the Authority to sell the electric service assets and wholesale water service assets to NextEra Energy, Inc. or the Electrical Utility to be operated as a private, investor-owned utility, upon the terms outlined in the Offer negotiated between NextEra Energy, Inc. and the Department of Administration, pursuant to the Asset Purchase Agreement submitted to the General Assembly by the Department of Administration and incorporated herein.

(6) The General Assembly finds that the Offer set forth in the Asset Purchase Agreement submitted by NextEra Energy, Inc., as approved herein, will result in low rates for the customers of the Authority than the Authority would be able to sustain, elimination of all of the Authority's outstanding indebtedness for borrowed money, including such debt associated with the V.C. Summer Nuclear Units 2 and 3. The Offer submitted by NextEra Energy, Inc. will result in significant value to the State of South Carolina, its taxpayers, and the customers of the Authority including:

(a) Elimination of 100% of the Authority's indebtedness for borrowed money, including defeasance costs;

(b) Elimination of significant future interest payments associated with the V.C. Summer Nuclear Units 2 and 3 resulting in rate relief for customers;

(c) A refund of \$541 million proportionately allocated to all current and former customers of the Authority to the extent that, based on the Authority's available customer records, such customers paid utility bills based on rates that included costs associated with pre-construction and other pre-operational costs for the abandoned V.C. Summer Nuclear Units 2 and 3;

(d) An additional refund of \$400 million proportionately allocated to all current customers of the Authority;

(e) A wholesale and retail rate freeze for a minimum period of four (4) years;

- (f) Investment of approximately \$2.3 billion in clean energy;
- (g) Payments in cash of at least \$500 million and as much as \$600 million subject to the provisions of the Asset Purchase Agreement; and
- (h) Significant new local and state tax revenues.

(7) Pursuant to S.C. Code of Laws § 58-31-30, the Authority's water service assets and operations are limited to wholesale activities and therefore are not regulated by the Commission. Following the sale of such water assets to NextEra Energy, Inc. or the Electrical Utility, those activities will continue to be governed by customer contracts and not by the Commission, for so long as those assets and operations remain so limited.

(8) To implement this sale and to ensure an efficient transition to an investor-owned utility, it is necessary and appropriate for the General Assembly to exercise its inherent authority to provide, by statute, transitional electric service and electric rate regulation as an orderly mechanism for the post-acquisition transfer of rate-setting and other regulatory authority to the Commission.

(9) The General Assembly finds that it is appropriate and in the best interest of the State to expeditiously grant to the Electrical Utility a certificate of public convenience and necessity and the right to serve all customers in the service territory of the Authority, to determine the value of the electrical utility property, to establish its rate base and electric service rates and charges, and to approve the proposal of and allow the Electrical Utility to displace and retire approximately 1,150 megawatts of coal-fired generation with approximately 2,100 megawatts of new investments in clean, efficient electric generation.

(10) In particular and not in limitation of the foregoing, it is in the best interest of the State to facilitate the sale of the Authority's operating electric service assets and water service assets by authorizing the imposition of a non-bypassable charge to customers that directly or indirectly purchase electricity to be transmitted or delivered by the Electrical Utility, and to authorize the securitization of the revenue stream therefrom, and ensuring that the securitization charge is billed, serviced, and collected as required by this Act.

(11) The General Assembly is mindful of the Board's duties to the Authority's bondholders for the protection of the interest of those bondholders as set forth in the Authority's duly-adopted and statutorily-authorized bond covenants, and of the General Assembly's own obligation undertaken in S.C. Code of Laws § 58-31-30(A)(21) neither to alter nor limit the rights that it has vested in the Authority until the Authority's obligations under its bonds are fully met and discharged unless the General Assembly has made adequate provision by law for the protection of the holders of those bonds.

(12) The General Assembly finds and declares that accepting the Offer of NextEra Energy, Inc. is fully compliant with the Joint Resolution (A 95, R113, H4287) and the

obligations of the Board and of the General Assembly set forth in paragraph 12 above, and is in the best interest of this State and its taxpayers and the customers of the Authority.

(13) In light of the above findings and pursuant to the terms herein, the General Assembly, on behalf of the people of the State of South Carolina, the owner of the Authority, and pursuant to S.C. Code of Laws § 58-31-30(B), finds and declares that it is appropriate and in the best interest of the State to agree to the terms of the Offer from NextEra Energy, Inc. set forth in the Asset Purchase Agreement and hereby directs the Department of Administration, on behalf of the Authority, to execute the Asset Purchase Agreement, publish the executed version of the Asset Purchase Agreement in the South Carolina State Register, and to take all other steps required in accordance with the Asset Purchase Agreement or as are reasonable and necessary to close the sale of the electric service assets and wholesale water assets of the Authority to the Electrical Utility as the final step in the process established by Joint Resolution (A 95, R113, H4287) as such action is in the best interests of all South Carolinians.

SECTION 2. Chapter 31, Title 58 of the S.C. Code of Laws is amended by adding:

“Article 7

Section 58-31-710. The following words, when used in this article, shall have the following meanings:

(1) “Acquired Assets” means the assets of the Authority at the time of closing of the acquisition, other than those assets or categories of assets excluded by the Asset Purchase Agreement. In particular, “Acquired Assets” include the Acquired Electric Assets and the Acquired Water Assets.

(2) “Acquired Electric Assets” means the assets of the Authority acquired by the Electrical Utility pursuant to the sale authorized by this Article used for the generation, transmission, and distribution of electricity. The Acquired Electric Assets are identified in the Asset Purchase Agreement.

(3) “Acquired Water Assets” means the assets of the Authority acquired by the Electrical Utility pursuant to the sale authorized by this Article used for the treatment and distribution of water for sale at wholesale to public governmental or private investor-owned water utilities. The Acquired Water Assets are identified in the Asset Purchase Agreement.

(4) “Adjustment Mechanism” means a formula-based mechanism for making expeditious periodic adjustments in the Securitization Charges that Customers are required to pay under a Financing Order where such adjustments are necessary to correct for any over-collection or under-collection of the Securitization Charges imposed by that Financing Order or to otherwise ensure the timely payment of the related Securitization Costs and other required amounts and charges payable in connection with the related Securitization Bonds. The Adjustment Mechanism in a CEU Financing Order (“CEU Adjustment Mechanism”) and the

Adjustment Mechanism in an R&M Financing Order (“R&M Adjustment Mechanism”) need not be identical.

(5) “Ancillary Financing Agreement” means any servicing agreement, bond, insurance policy, letter of credit, reserve account, surety bond, or other similar financial arrangement entered into in connection with an issuance of Securitization Bonds.

(6) “Assignee” means the entity to which the Electrical Utility assigns, sells, or transfers all of its interest in or right to Securitization Property pursuant to a Financing Order, and includes the successors and assigns of that entity. The issuer of any Securitization Bonds will be an Assignee of the related Securitization Property. The Assignee may be, but is not limited to being, a corporation, limited liability company, partnership or limited partnership, public authority, trust, financing entity, or other legally recognized entity.

(7) “Asset Purchase Agreement” means the form of agreement, including any exhibits, schedules and ancillary agreements, attached as Exhibit A to the Agreement to Transact by and between the Department of Administration and NextEra Energy, Inc. entered on [January 31, 2020], with such changes and modifications, if any, as are agreed in writing by NextEra Energy, Inc. and the Department of Administration, on behalf of the Authority, to the extent such changes or modifications are required by the terms of the Agreement to Transact or otherwise mutually agreed in writing by NextEra Energy, Inc. and the Department of Administration.

(8) “Authority” means that body corporate and politic known as the South Carolina Public Service Authority, being the corporation owned completely by the people of the State, established by S.C. Code of Laws § 58-31-10, also known and referred to as Santee Cooper.

(9) “Central” means Central Electric Power Cooperative Inc., its successors and assigns. Successors and assigns includes any entity that assumes Central’s obligation to provide wholesale power to the Central Contractors, by merger, acquisition or otherwise.

(10) “Central Contractor” means any electric cooperative or other entity, that, as of November 26, 2019, purchased electricity at wholesale from Central or from another Central Contractor for the purpose of re-selling that electricity, including its successors and assigns. Successors and assigns include any entity that owns or operates all or any portion of the transmission or distribution assets of a Central Contractor, by merger, acquisition or otherwise.

(11) “CEU Customer” means any Person in South Carolina that is an end-user of electricity and receives transmission or distribution services from a Central Contractor (whether such service is within the Central Contractor’s service area as granted by State law or pursuant to a municipal franchise).

(12) “CEU Financing Order” means a Financing Order issued pursuant to this Article upon the petition of the Electrical Utility that, *inter alia*, authorizes the imposition of CEU Securitization Charges upon CEU Customers.

(13) “CEU Securitization Bonds” means Securitization Bonds issued pursuant to a CEU Financing Order.

(14) “CEU Securitization Charge” means a Securitization Charge imposed pursuant to a CEU Financing Order.

(15) “CEU Securitization Costs” means Securitization Costs to be recovered (whether directly or through the repayment of Securitization Bonds) through CEU Securitization Charges.

(16) “CEU Securitization Property” means Securitization Property authorized pursuant to a CEU Financing Order.

(17) “Closing Date” means the closing date under the Asset Purchase Agreement on which the Electrical Utility becomes the owner of the Acquired Assets following satisfaction or waiver of all conditions precedent required by the Asset Purchase Agreement.

(18) “Commission” means the Public Service Commission of South Carolina.

(19) “Customer” means a CEU Customer or an R&M Customer.

(20) “Department of Administration” means the South Carolina Department of Administration.

(21) “Department of Revenue” means the South Carolina Department of Revenue.

(22) “Director” means the Director of the Department of Administration.

(23) “Electrical Utility” means a new private, investor-owned utility that is a subsidiary of NextEra Energy, Inc., its successors and assigns, with respect to its operations in the State.

(24) “Exemption Period” means the period beginning upon the Closing Date and ending on the December 31 next following the 30th anniversary thereof.

(25) “Fee” means the amount paid in lieu of ad valorem property tax as provided in Section 58-31-800(A) of this Article.

(26) “Financing Order” means an order issued by the Commission pursuant to Section 58-31-840 of this Article. A Financing Order is either a CEU Financing Order or an R&M Financing Order.

(27) “Financing Party” means, collectively, (a) Securitization Bondholders and trustees, collateral agents, or other Persons acting for the benefit of Securitization Bondholders and (b) a party to an Ancillary Financing Agreement or the Securitization Bonds, the rights and

obligations of which relate to or depend upon the existence of Securitization Property, or the enforcement and priority of a security interest in Securitization Property.

(28) “Financing Statement” has the same meaning as that provided in S. C. Code of Laws, § 36-9-102(a)(39).

(29) “Generation Resource Plan” means the Electrical Utility’s plan to displace and retire approximately 1,150 megawatts of the Authority’s coal-fired generation and replace it with approximately 2,100 megawatts of new, clean electricity generation in the form of approximately 800 megawatts of solar electrical generation facilities, approximately 50 megawatts of battery storage facilities, and approximately 1,250 megawatts of efficient natural gas generation; and add approximately 300 megawatts of capacity to the existing Rainey generation station through technology upgrades as approved herein.

(30) “Intermediary” means a Person that provides transmission or distribution electric service between Central or the Electrical Utility on the one hand and Customers on the other. Intermediaries include Central, Central Contractors, and any municipality serving an R&M Customer or CEU Customer.

(31) “Joint Resolution” means the Joint Resolution adopted by the General Assembly of South Carolina and effective on May 22, 2019, that began as House Resolution H. 4287, ratified with Ratification No. R. 113, and enacted as Act No. 95 of 2019.

(32) “NextEra Energy, Inc.” means NextEra Energy, Inc. and its subsidiaries, successors and assigns.

(33) “Non-bypassable” means a charge imposed upon and that cannot be avoided by a Customer. The Non-bypassable charge must be paid by the Customer, regardless of whether the Customer purchases its electricity from an alternative electricity provider and regardless of who generates or transmits that electricity.

(34) “Non-Central Wholesale Customers” include the City of Georgetown, City of Bamberg, Town of Waynesville, City of Seneca, Piedmont Municipal Power Agency, and Alabama Municipal Electric Authority.

(35) “Offer” as used herein means NextEra Energy Inc.’s offer to purchase the Acquired Assets on the terms set forth in Asset Purchase Agreement.

(36) “Office of Regulatory Staff” means the South Carolina Office of Regulatory Staff.

(37) “Omnibus Initial Proceeding” means the proceeding before the Commission by the Electrical Utility prior to its acquisition of the Acquired Assets for the purpose of obtaining any Commission orders necessary to consummate the acquisition under the Asset Purchase

Agreement. The Omnibus Initial Proceeding also includes petitions for a CEU Financing Order and for an R&M Financing Order.

(38) “Person” includes all individuals; partnerships; associations; bodies corporate; joint-stock companies; associations, domestic or foreign; bodies politic; political subdivisions; and State, local, and federal government agencies, departments, and authorities.

(39) “Rate Freeze Period” means the forty-eight (48) month period effective for billing periods beginning ninety (90) days after the Closing Date.

(40) “R&M Customer” means any Person in South Carolina that is an end-user of electricity, and either (i) receives transmission or distribution services directly from the Electrical Utility or (ii) distribution services from a municipality that is at that time a direct wholesale customer of the Electrical Utility (i.e., an Intermediary). Notwithstanding the foregoing, “R&M Customer” will exclude any Person that is not allocated any costs for electric generating capacity under the rate structure of the Authority at the Closing Date, including those Persons designated as “off-system wholesale customers” under the rate structure of the Authority at the Closing Date.

(41) “R&M Financing Order” means a Financing Order issued pursuant to this Article upon the petition of the Electrical Utility that *inter alia*, authorizes the imposition of R&M Securitization Charges upon R&M Customers.

(42) “R&M Securitization Bonds” means Securitization Bonds issued pursuant to an R&M Financing Order.

(43) “R&M Securitization Charge” means a Securitization Charge imposed pursuant to an R&M Financing Order.

(44) “R&M Securitization Costs” means Securitization Costs to be recovered (whether directly or through the repayment of Securitization Bonds) through R&M Securitization Charges.

(45) “R&M Securitization Property” means Securitization Property authorized pursuant to a R&M Financing Order

(46) “Securitization Activity” means the purchase of the Acquired Assets by the Electrical Utility and other action taken pursuant to the Asset Purchase Agreement and the satisfaction of all conditions precedent to such purchase.

(47) “Securitization Bonds” means bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that are issued by the Assignee pursuant to a Financing Order that are secured by or payable from Securitization Property, and the proceeds of which are used directly or indirectly to recover, finance, or refinance an original amount of approximately \$1.3

billion in costs of Securitization Activity, together with any other Securitization Costs approved in the Financing Order. Securitization Bonds are either CEU Securitization Bonds or R&M Securitization Bonds.

(48) “Securitization Bondholder” means the holder of a Securitization Bond, and are either “CEU Securitization Bondholders” if the Securitization Bonds held are CEU Securitization Bonds or “R&M Securitization Bondholders” if the Securitization Bonds held are R&M Securitization Bonds.

(49) “Securitization Charge” means the charge authorized by the Commission to recover, finance, or refinance Securitization Costs to be imposed on all Customers pursuant to a related Financing Order. The Securitization Charge shall be a Non-bypassable charge; shall be subject to periodic adjustment from time to time pursuant to an Adjustment Mechanism, to ensure the timely payment of the related Securitization Costs and other required amounts and charges payable in connection with the related Securitization Bonds; and shall be imposed on all Customer bills and collected by the Electrical Utility, the Intermediary, or other collection agent that invoices and collects from the Customer for electricity. The Securitization Charge shall be imposed and collected until the Securitization Bonds have been paid in full and the Securitization Costs have been recovered in full. Securitization Charges are either CEU Securitization Charges or R&M Securitization Charges.

(50) “Securitization Costs” means any pre-tax costs incurred or to be incurred by NextEra Energy, Inc. or the Electrical Utility to finance or refinance, directly or indirectly, a portion of the cost of the Securitization Activity, as determined by the Electrical Utility in its sole discretion and approved pursuant to a Financing Order. Securitization Costs also include the following, as approved in a Financing Order:

(a) Interest, principal (to the extent not duplicative of the above), and acquisition, defeasance or redemption premiums that are payable on Securitization Bonds;

(b) Any payment required under an Ancillary Financing Agreement and any amount required to fund or replenish a reserve account, over-collateralization, or other accounts established under the terms of any indenture, Ancillary Financing Agreement, or other financing documents pertaining to Securitization Bonds;

(c) Any other cost related to issuing, supporting, repaying, and servicing Securitization Bonds, including, but not limited to, servicing fees (including servicing fees and expenses of an Intermediary), accounting and auditing fees, issuer or Assignee fees, trustee fees, legal fees, credit enhancement fees, hedging costs, consulting fees, administrative fees, placement and underwriting fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, and filing fees, including costs of the Electrical Utility or any Intermediary related to obtaining the relevant Financing Order;

(d) A return on capital, if any, that is required to be invested by the Electrical Utility to facilitate the issuance of the Securitization Bonds in the nature of an equity contribution, reserve funds, administrative costs, or similar expenses;

(e) Any federal, State, or local taxes and license or other fees imposed on the revenues generated from the collection of Securitization Charges;

(f) Any federal or State income taxes resulting from the collection of Securitization Charges, in any such case whether paid, payable or accrued; or

(g) Any state and local taxes, franchise, gross receipts, and other taxes or similar charges, including, but not limited to, regulatory assessment fees, imposed on or with respect to the Securitization Charges, in any such case whether paid, payable or accrued.

Securitization Costs are either CEU Securitization Costs or R&M Securitization Costs. The Electrical Utility will allocate Securitization Costs to be recovered in the CEU Financing Order and the R&M Financing Order, respectively, based upon the three (3) year average of annual sales volumes for CEU Customers and R&M Customers, respectively, for which data is made available to the Electrical Utility

(51) “Securitization Property” means:

(a) All rights and interests in and related to the Securitization Charges under a Financing Order, including the right to impose, bill, collect and receive Securitization Charges authorized in the Financing Order and to obtain periodic adjustments to such charges pursuant to the Adjustment Mechanism provided in the Financing Order.

(b) All revenues, collections, claims, rights to payments, payments, money or proceeds arising from the rights and interests specified in Section 58-31-710(51)(a) of this Article, regardless of whether such revenues, collections, claims, rights to payment, payments, money or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

(52) Securitization Property is either CEU Securitization Property or R&M Securitization Property.

(53) “Service Territory” means all areas and entities to which the Authority is providing or is legally authorized to provide service immediately prior to the Closing Date, including, but not limited to, the exclusive service area of the Authority as established in S.C. Code of Laws § 58-31-330.

(54) “State” means the State of South Carolina.

Section 58-31-720. Acceptance of the Offer and Direction to the Department of Administration to sell certain assets of the Public Service Authority.

(A) The General Assembly, on behalf of the State, the owner of the Authority, and pursuant to S.C. Code of Laws § 58-31-30(B) and the Joint Resolution, hereby approves the Offer, pursuant to the Asset Purchase Agreement, and authorizes and directs the Department of Administration to execute the Asset Purchase Agreement on the Authority's behalf, and any other documents contemplated thereby or otherwise commercially reasonable and necessary to consummate the sale under the Asset Purchase Agreement; provided, however, notwithstanding the provisions of S.C. Code of Laws § 58-31-30(B), no approval by the Board of Directors of the Authority is required in connection with the sale under the Asset Purchase Agreement. The Department of Administration is further directed to cause the executed Asset Purchase Agreement to be published in the South Carolina State Register, with such executed form being maintained by the Director. Closing of the acquisition of the Acquired Assets by NextEra Energy, Inc. or the Electrical Utility from the Authority shall occur upon the terms of and subject to the conditions set forth in the Asset Purchase Agreement. Actions taken by the Director pursuant to the authorizations and directions contained in this Section 58-31-720 shall be the actions of the Authority. To the extent that authorization for any such action has been granted to any other person by any previously-enacted law, such grants are hereby withdrawn and re-delegated to the Director.

(B) The Department of Administration is hereby authorized to agree to, and execute amendments to, the Asset Purchase Agreement commercially reasonable and necessary to effectuate the purposes and intent of the transactions contemplated by the Asset Purchase Agreement, provided that such amendments are consistent with this Article and the amendment provisions of the Asset Purchase Agreement.

(C) Liabilities and obligations of the Authority:

(1) At the Closing Date, NextEra Energy, Inc. or the Electrical Utility shall assume and exclude the liabilities and obligations of the Authority as set forth in the Asset Purchase Agreement and subject to the following:

(a) For any such assumed liabilities or obligations resulting from actions or events that occurred, or conditions that arose, prior to the Closing Date, NextEra Energy, Inc. and the Electrical Utility will retain and have the right to assert the same claims, counterclaims, defenses, and immunities that would otherwise be available to the Authority if the liability, obligation, or claim were retained by the Authority, including, but not limited to, any applicable claims of State or sovereign immunities and immunity under the Tort Claims Act; and

(b) All liabilities or obligations of the Authority or of the State that are not expressly assumed by NextEra Energy, Inc. and the Electrical Utility in the Asset Purchase Agreement shall remain the liability or obligation solely of the State or the Authority and shall not in any manner be transferred to, or become an

obligation or liability of, NextEra Energy, Inc. or the Electrical Utility, including, but not limited to, successor liability.

(2) The Authority shall remain in existence and solvent for a sufficient period of time to address retained obligations and liabilities and such other administrative functions as may be necessary and appropriate, and the Authority shall not file for bankruptcy protection.

(D) Access to books and records of the Authority. Upon execution of the Asset Purchase Agreement, NextEra Energy, Inc. and the Electrical Utility shall be permitted full and open access to the Authority's books and records in accordance with and pursuant to the Asset Purchase Agreement.

(E) Notwithstanding any other provision of law, the consummation of the purchase and sale of the Acquired Assets on the terms set forth in this Article and in the Asset Purchase Agreement are hereby made lawful and permitted.

Section 58-31-730. Omnibus Initial Proceeding.

(A) The Electrical Utility shall reasonably promptly petition for and the Commission shall open the Omnibus Initial Proceeding after execution of the Asset Purchase Agreement. Through the Omnibus Initial Proceeding, the Commission shall, within a consolidated, single docket, grant and separately issue any and all certificates, approvals, and orders necessary or appropriate under this Article to consummate the sale under the Asset Purchase Agreement, including, but not limited to, affirming the Electrical Utility's certificate of public convenience and necessity conferred by Sections 58-31-740 and 58-31-760 of this Article, confirming the Service Territory established in Sections 58-31-750, establishing initial rates and tariffs consistent with Section 58-31-770, issuing an accounting order consistent with Section 58-31-770 and CEU and R&M Financing Orders as set forth in Section 58-31-840, and, subject to the following schedule without variation:

(1) No later than 180 days after the filing of the petition to open the Omnibus Initial Proceeding by the Electrical Utility, the Commission shall issue separate orders, for issues that can be individually addressed, granting all certificates and approvals necessary or appropriate under this Article to consummate the sale under the Asset Purchase Agreement;

(2) Any motion for reconsideration of an order or orders issued by the Commission under this Section 58-31-730 must be filed within 10 days of the issuance of the order or orders and the Commission must rule by issuing an order or orders on that motion for reconsideration within 20 days of the date that motion for reconsideration is filed;

(3) A motion for reconsideration is a prerequisite to taking an appeal from the Commission's order(s) in the Omnibus Initial Proceeding, and any such appeal shall be

filed directly to the South Carolina Supreme Court within 30 days from the day on which the Commission issues its order(s) on any motions to reconsider; and

(4) All officers, employees, contractors, and agents of the State whose assistance or involvement is required in the administrative or appellate processes of the Omnibus Initial Proceeding are directed that the General Assembly has determined as a matter of public policy that this is a matter of great public urgency and that every effort should be made to expedite the process whenever possible in order to serve the best interest of the State and its people.

(B) The scope and jurisdiction of the Omnibus Initial Proceeding will be limited solely to the matters set forth in this Article; and the Omnibus Initial Proceeding, as well as any motions for reconsideration of or appeals from any orders issued therein, shall not be the basis for any Person to challenge or otherwise oppose the General Assembly's selection and approval of the Offer from NextEra Energy, Inc., or any of the terms and conditions set forth therein.

Section 58-31-740. Certificate of public convenience and necessity for Electrical Utility.

In the Omnibus Initial Proceeding, the Commission shall grant to the Electrical Utility, effective on the Closing Date, a certificate of public convenience and necessity under Title 58, Chapter 27 of the South Carolina Code of Laws and South Carolina Regulation 103-304. Consistent with this Article, such grant shall cause the Electrical Utility to be deemed a certificated electrical utility and allowed to operate electric facilities to serve in the Service Territory pursuant to this Article and in compliance with the South Carolina Code of Laws.

Section 58-31-750. Service area of Electrical Utility purchasing the Acquired Assets of Authority.

Effective on the Closing Date, the Electrical Utility shall provide electric service within the Service Territory served by the Authority as of February 3, 2020. For that purpose, the Electrical Utility shall have the same rights and obligations as any other investor-owned utility serving in South Carolina subject to Article 5 of Chapter 27 of Title 58, S.C. Code of Laws. The Commission shall enter an appropriate order recording the assignment of these electric service rights to the Electrical Utility in the Omnibus Initial Proceeding.

Section 58-31-760. Generation Resource Plan

(A) The Electrical Utility's Generation Resource Plan and all associated facilities, as referenced in this section, are hereby approved. Effective on the Closing Date, the Electrical Utility is authorized to construct, own, and operate the following generation resources and associated facilities, the necessity and location for each of which are hereby approved and granted:

(1) Construction of approximately 800 megawatts of solar electrical generation facilities to be located in [Florence, Kershaw, Marion, and/or Orangeburg Counties]^[1];

(2) Construction of approximately 50 megawatts of battery storage facilities to be located in [Florence, Kershaw, Marion, and/or Orangeburg Counties]^[2], which may or may not be associated with the solar electrical generation facilities identified in Section 58-31-760(A)(1);

(3) Construction of approximately 1,250 megawatts of efficient natural gas generation to be located in Fairfield County; and

(4) Adding approximately 300 megawatts of capacity to the existing Rainey generation station through technology upgrades.

(B) The Commission shall issue certificates of public convenience and necessity in the Omnibus Initial Proceeding affirming the siting and construction of the Generation Resource Plan and associated facilities approved herein. Consistent with the terms of this Article, the generation resources approved in Section 58-31-760(A), shall be constructed and placed in service within seventy-two (72) months from the Closing Date.

(C) In the event that any of the foregoing generation resources approved in Section 58-31-760(A), other than the generation resource approved in Section 58-31-760(A)(3), is impeded or delayed due to permitting or changes in state laws and regulations, the Electrical Utility is hereby authorized, at its option, to substitute the impeded or delayed generation with generation of like amount and cost, the need and necessity for which are hereby found and approved; provided that the Commission shall, on determining that the Electrical Utility's failure to make such substitution is contrary to the public interest, direct the Electrical Utility to take such action as the public interest requires. In the event the Electrical Utility seeks to substitute or relocate the generation resource approved in Section 58-31-760(A)(3), the Electrical Utility shall submit to the Commission for its approval of need and necessity, as generally required of any investor owned utility, its application to substitute the impeded or delayed generation with generation of like amount.

(D) The Electrical Utility shall obtain all necessary environmental permits and environmental approvals required for the Generation Resource Plan approved in subsection (A) or subsection (C) of Section 58-31-760; provided, however, that any such permits or approvals shall not be a means for any Person or party to review, challenge, or otherwise oppose (i) the need for the generation resources or (ii) the location of the generation resources, each of which is approved herein. State agencies delegated authority to grant such environmental permits and

^[1] To be updated.

^[2] To be updated.

approvals shall expedite review of all necessary permit applications and requests for approvals in an effort to expedite the implementation of the Generation Resource Plan.

(E) The need for the electric transmission lines necessary to connect the generation resources approved in subsection (A) or subsection (C) of Section 58-31-760 with the electric power grid is hereby found and determined.

(1) For any such transmission lines with an operating voltage of one hundred twenty-five kilovolts or more, the Electrical Utility shall file an application for certificate in accordance with Section 58-33-120 for approval of the siting and location of the route for the applicable transmission line(s). Any such filing shall be separate from and not consolidated with the Omnibus Initial Proceeding.

(2) In making its decision for the siting of the routes for these electric transmission facilities, the Commission shall make findings and determinations as to the factors specified in Sections 58-33-160(1)(b) and (e), but the remaining requirements of Section 58-33-160 shall not apply in proceedings for the siting of such transmission lines associated with the Generation Resource Plan. Any such proceeding shall not be a means for any Person or party to review, challenge, or otherwise oppose (i) the need or location for the Generation Resource Plan approved in subsection (A) or subsection (C) of Section 58-31-760, or (ii) the need for the electric transmission lines necessary to connect these generation resources to the electric power grid, which is approved herein.

(3) Section 58-31-760(E) shall only apply to transmission lines necessary to connect the generation resources approved in subsection (A) or subsection (C) of Section 58-31-760 to the electric power grid.

(F) The Electrical Utility shall solicit bids from qualified equipment suppliers and contractors that the Electrical Utility concludes can provide the overall best value for the materials and services necessary for the safe and reliable construction of the Generation Resource Plan and associated facilities approved in subsection (A) or subsection (C) of Section 58-31-760 and the associated transmission lines approved in Section 58-31-760(E), consistent with scheduling and technical requirements associated with these facilities. Provided that if the Electrical Utility or any affiliate thereof will be a bidder in respect of such solicitation the bidding process shall be overseen by, and conducted under procedures determined by, the Commission.

(G) For purposes of the Generation Resource Plan approved in subsection (A) or subsection (C) of Section 58-31-760, the Electrical Utility shall include the actual installed costs in rate base; provided, however, that the costs included in rate base shall not exceed \$1,200/kW for solar electrical generation, \$910/kW for DC-connected battery storage, and \$885/kW for natural gas generation, including any associated gas pipelines and upgrades to the existing Rainey generation station. The foregoing limits shall apply only to the installed costs for the generation resources themselves, and shall not include Allowance for Funds Used During Construction, costs for access to adequate water supply, or transmission system upgrades costs

for the Authority's system or affected systems, each of which shall be subject to review by the Commission in the normal course of rate setting following the Rate Freeze Period. Subject to the limitations in this subsection (G), the Generation Resource Plan approved in subsection (A) or subsection (C) of Section 58-31-760 is deemed used and useful; and the installed costs at amounts reflected herein are deemed prudently incurred and shall be eligible for recovery in the rates and charges to be set following the expiration of the Rate Freeze Period, without further review. The Electrical Utility shall not be permitted to seek recovery of any costs associated with the Generation Resource Plan approved in subsection (A) or subsection (C) of Section 58-31-760 that are not completed and placed in service; provided, however, that the Electrical Utility shall be permitted to recover such costs in rates if the failure to complete and place the facilities in service is due to changes in federal or state laws or regulations.

(H) For purposes of the Generation Resources Plan approved in subsection (A) or subsection (C) of Section 58-31-760 or the transmission lines approved in Section 58-31-760(E), to the extent that NextEra Energy, Inc. initiates any such generation resources or transmission line projects on behalf of the Electrical Utility prior to the Closing Date, any such generation resources or transmission line projects shall be transferred from NextEra Energy, Inc. to the Electrical Utility at cost, as soon as practicable following the Closing Date.

(I) Subject to subsections (C) and (E) of Section 58-31-760, the requirements of Chapter 33, Title 58, S.C. Code of Laws will not apply to the Generation Resource Plan described above and approved herein.

(J) Unless otherwise authorized by the Commission, the Electrical Utility shall submit its triennial Integrated Resource Plan required by Section 58-37-40 on the same schedule and timeframe as other electrical utilities regulated by the Commission; provided, however, that in no event shall the Electrical Utility be required to submit an Integrated Resource Plan within the first year after the Closing Date.

Section 58-31-770. Valuation of property of Electrical Utility purchasing the Acquired Electric Assets of Authority.

(A) The amounts recorded on the books and records of the Electrical Utility for Acquired Electric Assets for ratemaking purposes will exclude goodwill and will reflect the historical cost of electric property, plant, and equipment in accordance with regulatory accounting practice. Those amounts set forth in the purchase accounting entry filed with the Commission and FERC with respect to Acquired Electric Assets shall be recorded in the books and records of the Electrical Utility, together with the Electrical Utility's approved investment in the Generation Resource Plan and associated facilities approved in subsection (A) or subsection (C) of Section 58-31-760 and the associated transmission lines approved transmission lines and facilities set forth in Section 58-31-760(E), and will form the going-forward basis for ratemaking purposes following the expiration of the Rate Freeze Period.

(B) Subject to the provisions of Section 58-31-760, assets and liabilities reflected on the Electrical Utility's balance sheet at the Closing Date are deemed used and useful, prudent,

and will be eligible for recovery in the normal course of rate setting following the Rate Freeze Period, and expenses reflected in its prospective income statement arising from conduct, plans, commitments or decisions of the Authority prior to the Closing Date will be eligible for recovery by the Electrical Utility in the normal course of rate setting following the Rate Freeze Period, including capital costs and expenses incurred associated with coal ash remediation. The assets and liabilities reflected on the Electrical Utility's balance sheet at the Closing Date shall not be deemed to include the Generation Resources Plan addressed in Sections 58-31-760(A) and 58-31-760(C) or the transmission lines addressed in Section 58-31-760(E).

Section 58-31-780. Establishment of initial rates and charges of Electrical Utility and accounting order.

(A) Customer Refunds.

(1) The Electrical Utility shall provide wholesale and retail customers, whether current or former, an aggregate customer refund totaling \$541 million following the Closing Date. The customer refund shall be proportionately allocated among all the Authority's residential, commercial, industrial and wholesale customers based on annual sales volumes, to the extent that, based on the Authority's available customer records, such classes of customers paid utility bills based on rates that included costs associated with pre-construction and other pre-operational costs associated with the V.C. Summer Nuclear Reactor Units 2 and 3 Project. The Office of Regulatory Staff will confirm and the Commission shall approve the allocated amounts in the Omnibus Initial Proceeding.

(2) The Electrical Utility shall provide all current wholesale and retail customers, excluding Economy Power retail customers and Off-System wholesale customers, an aggregate customer refund totaling \$400 million following the Closing Date. The customer refund shall be proportionately allocated among all the Electrical Utility's existing residential, commercial, industrial and wholesale customers based on annual sales volumes at the time of the refund.

(3) The customer refunds shall be issued within one hundred and eighty (180) days following the Closing Date through either bill credit(s) applied to the accounts of existing customers or by check(s) mailed to existing and/or former customers.

(B) The Electrical Utility shall, in the Omnibus Initial Proceeding, file with the Commission its initial schedule for rates, service rules and regulations, and service contracts to be implemented during the Rate Freeze Period pursuant to the following requirements:

(1) The Electrical Utility shall file and the Commission shall approve a tariff adopting rates and implementing all service rules, regulations, and contracts necessary and appropriate for the Electric Utility, consistent with this Section 58-31-780(B), to provide electric service as an investor-owned public utility subject to the regulatory jurisdiction of the Commission.

(2) The Electrical Utility's schedule of rates and charges shall be the Authority's existing rates and charges imposed by the Authority on October 1, 2019, subject to the following adjustments to be applied through the Fuel Adjustment Clause:

(a) During the Rate Freeze Period, the rates for the Electrical Utility's Fuel Adjustment Clause will be initially set at $-\$0.01199/\text{kWh}$ for the residential and commercial customer classes, and $-\$0.01197/\text{kWh}$ for the industrial customer classes.

(b) The Electrical Utility's initial Fuel Adjustment Clause approved in Section 58-31-780(B)(2)(a) will, upon the terms of the Asset Purchase Agreement, be adjusted, positive or negative, to: (a) reflect changes in interest rates between January 27, 2020, and the date the Asset Purchase Agreement is executed; (b) reflect the difference in the monthly forward curve for natural gas between January 27, 2020, and the Closing Date; (c) reflect changes in the coal price and costs for physical delivery, including transportation, of coal between January 27, 2020, and the Closing Date; and (d) an increase of $\$0.175/\text{MWh}$ for every 1% loss in total system load attributable to Non-Central Wholesale Customers that leave the Authority's system on or before the Closing Date and do not become customers of the Electrical Utility.

(c) The adjustments to the Fuel Adjustment Clause, as described herein, shall be, to the maximum extent permissible by existing contracts of the Authority, proportionate among the various classes of users and services to the rates and charges therefor being imposed by the Authority on October 1, 2019.

(d) The Fuel Adjustment Clause, as adjusted herein, will remain at the adjusted level until base rates are reset following the expiration of the Rate Freeze Period.

(3) For purposes of Section 58-31-780(B)(2)(b), NextEra Energy, Inc. is hereby authorized to acquire hedges on behalf of the Electrical Utility and, on or before the Closing Date, transfer any such hedges to the Electrical Utility at fair value.

(C) Except as provided in this Section 58-31-780(C), and subject to Section 58-31-760(G), the schedule of rates and charges of the Electrical Utility will take effect upon the Closing Date and will be frozen through the Rate Freeze Period, and the Electrical Utility may not apply to the Commission for an adjustment of its initial rates and charges that would take effect prior to the end of the Rate Freeze Period, subject to the following:

(1) The electric services provided and rates charged to retail customers during the Rate Freeze Period shall be affirmed by the Commission in the Omnibus Initial Proceeding subject to the terms and conditions set forth in Section 58-31-780(B).

(2) The Electrical Utility may establish one or more regulatory assets during the Rate Freeze Period for the purpose of deferring for future recovery cost increases that are outside of its control and related to: (a) gypsum contracts, in excess of forecasted amounts; (b) significant events leading to state emergency declarations, including storms, sabotage, or other attacks; (c) significant cybersecurity or cyber events; (d) retirement or dismantling of the Cross and Winyah generating units; or (e) changes in laws or regulations, including standards or management of coal combustion residue. Any such deferrals are hereby deemed prudently made and will be eligible for recovery in the rates and charges to be set following the expiration of the Rate Freeze Period, subject only to an assessment of reasonableness by the Commission in the normal course of rate setting following the Rate Freeze Period as to the amount of particular expenditures or charges, but not as to the decision to defer such costs.

(3) During the Rate Freeze Period, at the request of the Electrical Utility, the Commission shall approve a rider for the recovery of costs related to storm losses, changes in tax rates, and changes in laws or regulations. Any such costs shall be eligible for recovery through a rider, and subject only to an assessment of reasonableness as to the amount of particular expenditures or charges. The allocation of the rider costs to the rate classes shall be consistent with the cost of service methods and rate design used to establish rates in effect prior to the Closing Date. Such rider shall remain in place following the Rate Freeze Period for the period of time necessary to fully recover such costs except to the extent the Electric Utility elects to include such costs for recovery through base rates, in connection with a subsequent base rate proceeding.

(4) During the Rate Freeze Period the Electrical Utility shall submit quarterly earnings monitoring reports on a modified system only basis that targets a regulatory Return on Equity of 9.89% on a blended system wide basis (wholesale and retail).

(5) Following the Rate Freeze Period, prospective retail rates will be subject to customary review and determination by the Commission consistent with its regulatory jurisdiction and the terms of this Act.

(D) The General Assembly finds and declares that the retail rates and charges to be charged during the Rate Freeze Period, in accordance with this Article are reasonable and prudent, and that the said schedule of rates and charges and any financial result or calculation dependent thereon are not subject to complaint, hearing, or determination as to reasonableness, other than as set forth in subsections (C)(2) and (C)(3) of this Section 58-31-780.

(E) Accounting Order. In the Omnibus Initial Proceeding, the Commission shall issue a separate accounting order that:

(1) Approves an authorized Return on Equity of 10.2 percent and a capital structure of 52.2 percent equity for the Electrical Utility for all regulatory and ratemaking purposes, including the computation of Allowance for Funds Used During Construction,

until the Electrical Utility's new schedule of rates and charges are established following the expiration of the Rate Freeze Period.

(2) Confirms that the Authority's existing depreciation study and resulting rates shall be superseded by a new depreciation study filed by the Electrical Utility and approved by the Commission in the Omnibus Initial Proceeding with depreciation rates consistent with the Generation Resource Plan approved herein and the Electrical Utility's operational strategies, subject to the following:

(a) For coal facilities retired during the Rate Freeze Period, the unrecovered net book value will be deferred as a regulatory asset and will earn a return until fully amortized over 30 years, such amortization and recovery to begin at the time new rates are set after the Rate Freeze Period; and

(b) The new depreciation study will include support for a non-cash "flexible" credit associated with regulatory liabilities and/or depreciation surplus of approximately \$350 million, which the Commission shall approve to be available to be utilized by the Electrical Utility at its discretion until new rates are set after the Rate Freeze Period.

(3) Confirms, in accordance with Section 58-31-770, that the Electrical Utility's rates established following the Rate Freeze Period will include as prudently incurred investment in rate base: (i) the net book value of the Acquired Electric Assets; (ii) subject to Section 58-31-760(H), the Electrical Utility's investment in the Generation Resource Plan and associated facilities approved in Section 58-31-760(A), subject to Section 58-31-760(G), the associated transmission lines approved in Section 58-31-760(E), and necessary upgrades; and (iii) assets and liabilities reflected on the Electrical Utility's balance sheet upon closing and expenses reflected in its prospective income statement arising from conduct, plans, commitments or decisions of the Authority on or prior to the Closing Date.

(F) To enable the Fuel Adjustment Clause to remain at the adjusted level in accordance with Section 58-31-780(B) until base rates are reset following the expiration of the Rate Freeze Period, the Electrical Utility shall not be subject to the requirements of Section 58-27-865 until new rates are set after the Rate Freeze Period.

(G) For purposes of an efficient and orderly transition, during the first year after the Closing Date, the Electrical Utility shall not be subject to the requirements of the following and any administrative regulations or orders related thereto:

(1) Article 13, Chapter 27, Title 58, S.C. Code of Laws. The Electrical Utility shall submit any securities applications required under Article 13, Chapter 27, Title 58, S.C. Code of Laws, if any, beginning the second year after the Closing Date; provided, however, that in no event during the first year after the Closing Date shall the Electrical

Utility issue securities that would be inconsistent with the capital structure of 52.2 percent equity approved in Section 58-31-780(E)(1).

(2) Chapter 40, Title 58, S.C. Code of Laws. The Electrical Utility shall submit a net meter tariff in accordance with Chapter 40, Title 58, S.C. Code of Laws, no later than one year after the Closing Date. During the period between the Closing Date and the effective date of the Electrical Utility's new net meter tariff, the Electrical Utility shall continue to offer net metering on an interim basis pursuant to the Authority's existing Distributed Generation Rider.

(3) The standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and other terms and conditions required by Section 58-41-20. The Electrical Utility shall submit a filing to implement the standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and other terms and conditions required by Section 58-41-20 to become effective the second year after the Closing Date.

(4) The voluntary renewable energy program required by Section 58-41-20. The Electrical Utility shall file a new voluntary renewable energy program in accordance with Section 58-41-20 to become effective the second year after the Closing Date.

(5) The community solar program required by Section 58-41-20. The Electrical Utility shall file a new community solar program in accordance with Section 58-41-20 to become effective the second year after the Closing Date.

(H) Nothing in this Article shall be construed to restrict the Electrical Utility, at its sole discretion, from offering, subject to Commission review and approval, optional new services or new tariff options that will be available to its customers on a voluntary basis during the Rate Freeze Period.

(I) Nothing in this Article shall be construed to restrict or limit the Electrical Utility's right or ability under Section 103-803 of the S.C. Code of Regulations to seek a waiver of the Commission's rules and regulations, provided that any such waiver shall be consistent with this Article.

Section 58-31-790. This Section left blank intentionally.

Section 58-31-800. Electrical Utility shall pay certain taxes or payments in lieu thereof.

(A) Ad Valorem Property Taxes

(1) During the Exemption Period, the Electrical Utility shall pay annually a Fee in lieu of ad valorem property taxes on the Acquired Assets in an amount equivalent to the aggregate payments made by the Authority in lieu of ad valorem property taxes on

the Acquired Assets pursuant to S.C. Code of Laws §§ 58-31-80, 58-31-90, and 58-31-100 with respect to fiscal year 2019, subject to the following:

(a) Such Fee shall be apportioned among and paid to the various counties, school districts, municipalities and other political subdivisions of the State in the same manner and proportion as the 2019 Fee was paid by the Authority. Any requirements imposed by S.C. Code of Laws §§ 58-31-80, 58-31-90, or 58-31-100 upon the counties, school districts, municipalities and other political subdivisions of the State for the use or application of such Fee shall continue to apply to such counties, school districts, municipalities and other political subdivisions of the State.

(b) Subject to payment of the Fee provided in subparagraph (A)(1), the Electrical Utility shall be exempt from all ad valorem property taxes on the Acquired Assets during the Exemption Period.

(c) During the Exemption Period, the amount of such Fee shall not be revised upon a disposition or retirement of any of the Acquired Assets or upon the repair of or maintenance to, replacements of components within, or additions or improvements of components to, any facility that is part of the Acquired Assets. Expenditures that are made by the Electrical Utility during the Exemption Period that consist of repairs and maintenance to, replacements of components within, or additions of components to, any facility that is part of the Acquired Assets, shall be treated as part of the Acquired Assets and not as property or assets newly placed in service by the Electrical Utility after the Closing Date.

(2) For tax years following the expiration of the Exemption Period, the Electrical Utility shall pay ad valorem property taxes with respect to the Acquired Assets to the jurisdictions in which the Acquired Assets are taxable in accordance with the State's then generally applicable ad valorem property tax law and the tax rates of those jurisdictions; and the necessity of such payments shall be taken into account by the Commission in approving the Electrical Utility's schedule of rates and charges to be imposed thereafter.

(3) Subject to Section 58-31-800(A)(1)(c), the Electrical Utility shall pay ad valorem taxes or, where authorized by law, fees in lieu of taxes with respect to any property or assets placed in service after the Closing Date to the jurisdictions in which such property is taxable in accordance with the State's then generally applicable ad valorem property tax law and the tax rates of those jurisdictions, and the necessity of such payments shall be taken into account by the Commission in approving the Electrical Utility's rates and charges.

(4) The foregoing provisions of this Section 58-31-800(A)(1) set forth all the obligations of the Electrical Utility for the payment of ad valorem property taxes or fees in lieu thereof.

(B) Other taxes.

(1) During the Rate Freeze Period, the Electrical Utility shall pay annually a fee to the State in an amount equivalent to the aggregate payments made by the Authority to the State in 2019 pursuant to S.C. Code of Laws § 58-31-110.

(a) Subject to payment of the fee provided in Section 58-31-800(B)(1), during the Rate Freeze Period, neither the State, county, a local government, municipality, school district, nor any other political subdivision may impose on the Electrical Utility or its operations any form of State or local political subdivision taxes, fees, or charges other than the ad valorem property taxes or fees in lieu thereof described in Section 58-31-800(A) of this Article, whether income taxes, new or increased franchise taxes, sales taxes, transfer taxes, excise taxes, impact fees, license fees, electric power tax, deed recording fees, or otherwise.

(b) While the Electrical Utility is exempt from state corporate income taxes or charges during the Rate Freeze Period, state net operating losses will accrue and be available to the Electrical Utility as if the Electrical Utility was not exempt from state corporate income tax and filed state corporate income tax returns during the Rate Freeze Period. During the Rate Freeze Period, the Electrical Utility will file pro forma stand-alone South Carolina corporate income tax returns by the extended due date for the applicable tax year reporting any net operating losses generated.

(2) Subject to Section 58-31-800(A), the Electrical Utility shall be subject to all applicable taxes, fees, and charges in the year new rates take effect after the expiration of the Rate Freeze Period. With respect to taxable periods or portions thereof following the expiration of the Rate Freeze Period, the Electrical Utility shall be permitted to recover such taxes, fees, or charges through new rates.

(3) The transfer of the Acquired Assets pursuant to the Asset Purchase Agreement shall be exempt from state, county, city, municipality, and political subdivision sales, use, transfer, excise, deed recording or similar taxes, charges, or fees.

(C) General applicability to other divestitures by the State, State agency, or political subdivision.

(1) Whenever the State, a State agency, or a political subdivision divests itself of substantially all of the assets of any other enterprise owned by the State, a State agency, or a political subdivision for consideration valued in excess of one billion dollars (\$1,000,000,000) and such assets were, prior to the divestiture, exempted from ad valorem property taxes, then the divested assets and replacement assets shall, for a period of thirty (30) years following such divestiture, continue to be exempt from ad valorem

property taxes, but shall for the same period continue to be subject to any payments in lieu of such taxes previously required to be paid with respect thereto.

(2) Whenever the State, a State agency, or a political subdivision divests itself of substantially all of the assets of any other enterprise owned by the State, a State agency, or a political subdivision for consideration valued in excess of one billion dollars (\$1,000,000,000) and such enterprise was exempt from income, sales, or similar taxes, then the acquirer shall, to the extent of its operations based on the acquired assets, be exempt from such income, sales, or similar taxes as before for a period equal to the shorter of (a) the maximum allowable duration of the Rate Freeze Period from the date of divestiture, and (b) the time for which the acquirer commits to freezing (except for extraordinary costs) the initial schedule of rates and charges that it imposes for the services provided by or through those assets, but shall for the same period continue to be subject to any payments in lieu of such taxes previously required to be paid with respect thereto.

Section 58-31-810. Filing of returns, contracts, and other information; due date of payments and returns.

(A) To the extent consistent with Section 58-31-800 and the other provisions of this Article, the Electrical Utility shall file returns and other information required by the Department of Revenue.

(B) The Fee payments provided in Section 58-31-800(A)(1) and returns showing dispositions and replacements shall be due at the same time as property tax payments and property tax returns are due.

(C) Failure to make timely Fee payments provided in Section 58-31-800(A)(1) and file required returns shall result in penalties being assessed as if the payment or return were a property tax payment or return.

(D) The Department of Revenue shall issue rulings and promulgate regulations as necessary to carry out the purpose of this Section 58-31-810.

(E) The provisions of Chapters 4 and 54, Title 12, S.C. Code of Laws, applicable to property taxes, apply to this Section 58-31-810, and for purposes of the application, the Fee provided in Section 58-31-800(A)(1) is considered a property tax. S.C. Code of Laws § 12-54-155 does not apply to this Section.

(F) The provisions of Chapters 49, 51, and 53, Title 12, S.C. Code of Laws, apply to the Fee due under Section 58-31-800(A) of this Article. For purposes of those chapters, the Fee provided in Section 58-31-800(A)(1) is considered a property tax.

(G) The Department of Revenue, for good cause, may allow additional time for filing of returns required under this Section 58-31-810. The request for an extension may be granted

only if the request is filed with the Department of Revenue on or before the date the return is due. However, the extension must not exceed sixty (60) days from the original date the return is due. The Department of Revenue shall develop applicable forms and procedures for handling and processing extension requests.

Section 58-31-820. This Section left blank intentionally.

Section 58-31-830. Projects to be taxable property at level of negotiated payments for purposes of bonded indebtedness and for computing index of taxpaying ability.

The Acquired Assets are considered taxable property at the level of “political subdivisions” and school districts for purposes of bonded indebtedness pursuant to Sections 14 and 15, Article X of the Constitution of this State, and for purposes of computing the index of taxpaying ability pursuant to S.C. Code of Laws § 59-20-20(3).

Section 58-31-840. Non-bypassable charge, Financing Orders, and Securitization.

In this Section 58-31-840, references to Customers, Securitization Costs, Securitization Charges, Securitization Property, Securitization Bonds, Financing Orders, and Adjustment Mechanisms shall be, depending on the context, understood to refer to either: CEU or R&M Customers; CEU or R&M Securitization Costs; CEU or R&M; CEU or R&M Securitization Property; CEU or R&M Securitization Bonds; CEU or R&M Financing Orders; and CEU or R&M Adjustment Mechanisms.

(A) Petitions for Financing Orders.

(1) The Electrical Utility shall petition the Commission for each Financing Order and will include for Commission review and approval a proposed form of each Financing Order consistent with this Article and substantially in the form of the Financing Orders included with the Asset Purchase Agreement approved herein.

(2) Petitions (other than petitions related to re-financing Securitization Bonds) shall be filed as part of the Omnibus Initial Proceeding and simultaneously served on the South Carolina Office of Regulatory Staff. The Office of Regulatory Staff shall review the proposed Financing Orders and, if appropriate, make recommendations to the Commission within sixty (60) days of service to ensure the proposed Financing Orders are consistent with this Article and substantially in the form of the Financing Orders included with the Asset Purchase Agreement approved herein.

(3) In each proceeding on a petition, the Electrical Utility, and each entity (if any) that is an Intermediary must be made a party to the proceeding. Each such Intermediary may appoint the Electrical Utility or another Intermediary as that Intermediary’s attorney in fact.

(B) Financing Orders.

(1) Financing Orders shall:

(a) Estimate and approve the amount of Securitization Costs that may be recovered, from Securitization Bond proceeds or on an ongoing basis, through Securitization Charges payable by Customers over the life of the Securitization Bonds;

(b) Specify and approve the period over which Securitization Costs may be recovered;

(c) Describe and approve how the Securitization Charges will be Non-bypassable, as defined in this Article;

(d) Authorize and order any Intermediary or Intermediaries to impose, include on the invoice, and collect the Securitization Charge on behalf of the Assignee;

(e) Authorize and direct that the Securitization Charge shall be promptly transferred by the invoicing and collecting entity to the Assignee or a Financing Party to be used solely for the purpose of paying Securitization Costs;

(f) Approve a methodology for allocating Securitization Costs (including all financing costs) among Customers and an Adjustment Mechanism;

(g) Create the Securitization Property in the Electrical Utility, Intermediary, or Intermediaries as requested in the petition for a Financing Order and specify that the Securitization Property is, or shall be, transferred to an Assignee or Assignees and used to secure the repayment of the Securitization Bonds and other Securitization Costs;

(h) Specify the degree of flexibility to be afforded to the Electrical Utility and the Assignee, consistent with the Financing Orders included with Asset Purchase Agreement approved herein, in establishing the terms and conditions of the Securitization Bonds, including, but not limited to, repayment schedules, interest rates, redemption or repayment provisions, any Ancillary Financing Agreements and any over-collateral arrangements associated therewith, and other costs of issuance and other financing costs;

(i) Approve the servicing and any sub-servicing agreements for the Securitization Charges and order the Electrical Utility and any Intermediaries to perform their obligations under any servicing, sub-servicing, or collection agent agreement; and

(j) Provide that, after the final terms of an issuance of Securitization Bonds have been established and prior to the issuance of Securitization Bonds, the

Electrical Utility shall determine the resulting initial Securitization Charge in accordance with the Financing Order, and such initial Securitization Charge shall be final and effective upon the issuance of such Securitization Bonds without further Commission action.

(2) The Commission shall issue the Financing Orders consistent with this Article and substantially in the form of the Financing Orders included with the Asset Purchase Agreement approved herein, subject only to changes that are acceptable to the Electrical Utility.

(3) A Financing Order may provide that creation of the Securitization Property pursuant to Section 58-31-840(B)(2)(g) is conditioned upon, and shall be simultaneous with, the sale or other transfer of the Securitization Property to the Assignee and the pledge of the Securitization Property to secure Securitization Bonds.

(4) When Securitization Bonds are issued pursuant to a Financing Order, the Electrical Utility or another servicer on behalf of an Assignee shall file with the Commission and the Office of Regulatory Staff at least semi-annually, notice of the Securitization Charges required by the Adjustment Mechanism. The review of such a request shall be administrative and limited only to determining whether there is any mathematical error in the application of the Adjustment Mechanism. The Office of Regulatory Staff shall review and make recommendations to the Commission regarding the Adjustment Mechanism notice filed under this paragraph within thirty (30) days of receipt. Any such adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other Securitization Costs in respect of Securitization Bonds approved under the Financing Order. Within forty-five (45) days after receiving a request pursuant to this paragraph, the Commission shall either approve the request or inform the Electrical Utility (or any servicer on its or their behalf) of any mathematical errors in its calculation. If the Commission informs the Electrical Utility or other servicer of mathematical errors in its calculation, the Electrical Utility or other servicer may correct its error and refile its request. The timeframes previously described in this paragraph shall apply to a refiled request. The Financing Order may allow any adjustment request to go into effect, subject to subsequent adjustment for mathematical error, in the manner set forth in the Financing Order.

(5) Subsequent to the earlier of the transfer of Securitization Property to the Assignee or the issuance of Securitization Bonds authorized thereby, a Financing Order is irrevocable and, except as provided in subsection (B)(4) and subsection (B)(6) of this Section 58-31-840, the Commission may not amend, modify or terminate the Financing Order by any subsequent action or reduce, impair, postpone, terminate or otherwise adjust Securitization Charges approved in the Financing Order.

(6) At the request of the Electrical Utility, the Commission may commence a proceeding and issue a subsequent Financing Order that provides for retiring and

refunding Securitization Bonds issued pursuant to the original Financing Order if the Commission finds that the subsequent Financing Order satisfies all of the criteria specified in Section 58-31-840(B). Effective on the refunding, the Commission shall adjust the related Securitization Charges accordingly.

(7) Within 10 days after the Commission issues a Financing Order pursuant to Section 58-31-840(B)(1) or, if a request for reconsideration is granted, within 10 days after the Commission issues its decision on reconsideration, an adversely affected party may, as its sole remedy, petition for judicial review in the South Carolina Supreme Court. Review on appeal shall be based solely on the record before the Commission and briefs to the court and shall be limited to determining whether the Financing Order issued pursuant to Section 58-31-840(B), or the Financing Order on reconsideration, conforms to the Constitution and laws of this State and the United States and is within the authority of the Commission under this Article. Inasmuch as delay in the determination of the appeal of a Financing Order will delay the issuance of Securitization Bonds, the court shall proceed to hear and determine the action as expeditiously as practicable and give the action precedence over other matters not accorded similar precedence by law.

(8) Duration of Financing Orders

(a) A Financing Order shall only become effective following the written consent filed with the Commission by the Electrical Utility.

(b) A Financing Order remains in effect until the Securitization Bonds issued pursuant to the Financing Order have been paid in full and the Commission-approved Securitization Costs have been recovered in full.

(c) A Financing Order shall remain in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings of the Electrical Utility or any Intermediary or their successors or assigns or the Assignee or any other servicer.

(C) Commission jurisdiction and exceptions thereto.

(1) Except as expressly provided for in the following sentence and excluding the Electrical Utility, this Article does not extend the jurisdiction of the Commission over any Person over which it did not have jurisdiction previously, nor does it subject any Person to regulation or oversight by the Commission to any extent to which that Person was not previously subject to such jurisdiction or oversight. Notwithstanding any other provision of law exempting any Person from Commission jurisdiction or oversight (including without limitation Sections 33-49-50 and 58-27-1010), Central and any other Person (including any municipality that serves R&M Customers and any Central Contractor) that is not subject to such jurisdiction or oversight that will be an Intermediary, are hereby made subject to the limited jurisdiction of the Commission solely for its consideration, adoption, oversight, and enforcement of Financing Orders,

including, but not limited to, the imposition and collection of Securitization Charges and use of Securitization Charges, as authorized in this Article and by the Financing Order. The Electrical Utility, an Assignee, a Financing Party or other interested party, including the Office of Regulatory Staff may bring an action in State Circuit Court to enforce any Financing Order or any servicing, sub-servicing, or collection agent agreement, and the Commission is authorized to take, and shall take, any action that it is obligated to take under a Financing Order to enforce the provisions of a Financing Order utilizing the same powers it would use to enforce any of its orders against entities within the general jurisdiction of the Commission.

(2) When the Commission issues a Financing Order pursuant to Section 58-31-840(B), the Commission may not, in exercising its powers and carrying out its duties regarding any matter within its authority pursuant to this Chapter, consider the Securitization Bonds issued pursuant to the Financing Order to be the debt of the Electrical Utility other than for federal income tax purposes (if applicable), consider the Securitization Charges paid under the Financing Order to be the revenue of the Electrical Utility for any purpose (provided nothing herein shall prevent such revenues from being considered in connection with the calculation of the Electrical Utility's rates subject to the Rate Freeze Period established pursuant to Section 58-31-780 of this Article), or consider the Securitization Costs specified in the Financing Order to be the costs of the Electrical Utility, nor may the Commission determine any action taken by the Electrical Utility that is consistent with the Financing Order to be unjust or unreasonable. The failure of the Electrical Utility or any Intermediary or any other servicer to credit a Customer's bill or otherwise comply with Section 58-31-780 shall not invalidate, impair or affect any Financing Order, Securitization Property, Securitization Charge or Securitization Bonds.

(3) The Commission may not refuse to allow the Electrical Utility to recover costs for Securitization Activities in an otherwise permissible fashion, or refuse or condition authorization or approval of the issuance and sale by the Electrical Utility of securities or the assumption by it of liabilities or obligations, solely because of the potential availability of issuing Securitization Bonds therefor.

(D) Securitization Charges and the Electrical Utility and Intermediary duties; Securitization Bonds not a debt of any Intermediary.

(1) The Securitization Charge shall be collected by the Electrical Utility or an Intermediary, or their respective successors or assignees, or a collection agent, in full through a charge that is in addition to the other rates of the Electrical Utility or Intermediary, as provided in the Financing Order.

(2) In the event of a Customer partial payment and with regard to that Customer's account, the Electrical Utility or Intermediary, as applicable, shall allocate all Customer revenue pro-rata between the Securitization Charge and the remaining Customer charges; provided, however, nothing herein shall prevent the Electrical Utility

or any Intermediary, with regard to its obligations to remit Securitization Charges to an Assignee (or Financing Party), from applying all revenue received from its wholesale and retail electrical customers first to the payment of Securitization Charges due and owing and then to other wholesale or retail customer charges if so provided in the Financing Order.

(3) The failure of the Electrical Utility or Intermediary to comply with this subsection of Section 58-31-840 shall not invalidate, impair or affect any Financing Order, Securitization Property, Securitization Charge or Securitization Bonds.

(4) The Securitization Bonds are not debt or liability of any Intermediary.

(E) Securitization Property.

(1) Creation and duration of existence of Securitization Property

(a) All Securitization Property that is specified in a Financing Order shall constitute an existing, present property right or interest therein, notwithstanding that the imposition and collection of Securitization Charges depends on the Electrical Utility, an Intermediary or another Person performing its servicing functions relating to the collection of Securitization Charges and on future electricity consumption. Such Securitization Property shall exist whether or not the revenues or proceeds arising from the property have been billed, have accrued, or have been collected and notwithstanding the fact that the value or amount of the Securitization Property may be dependent on the future provision of service to Customers.

(b) Securitization Property specified in a Financing Order shall continue to exist until the Securitization Bonds issued pursuant to the Financing Order are paid in full and all Securitization Costs have been recovered in full.

(c) All or any portion of Securitization Property specified in a Financing Order may be transferred, sold, conveyed, or assigned to the Assignee, which may include an affiliate or affiliates of Electrical Utility created for the limited purpose of acquiring, owning, or administering Securitization Property or issuing Securitization Bonds under the Financing Order. All or any portion of Securitization Property may be pledged to secure Securitization Bonds issued pursuant to the Financing Order, amounts payable to Financing Parties and to counterparties under any Ancillary Financing Agreements, and other financing costs. Each such transfer, sale, conveyance, assignment or pledge by the Electrical Utility, Intermediary or Assignee is considered to be a transaction in the ordinary course of business.

(d) If the Electrical Utility or Intermediary or any servicer defaults on any required payment of charges arising from Securitization Property specified in

a Financing Order, a court, upon application by an Assignee or Financing Party, or upon the application of the Commission, and without limiting any other remedies available to such applying party, shall order the sequestration and payment of the revenues arising from the Securitization Property to the Financing Parties. Any such order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the Electrical Utility, or an Intermediary, or any servicer, or their respective successors or assigns.

(e) The interest of the Assignee or a Financing Party in Securitization Property specified in a Financing Order, and in the revenue and collections arising from that property, is not subject to setoff, counterclaim, surcharge or defense by the Electrical Utility, any Intermediary, any Customer or any other Person or in connection with the reorganization, bankruptcy or other insolvency of the Electrical Utility, Intermediary, Customer, or any other entity.

(f) Any successor to the Electrical Utility or Intermediary, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale or other business combination, or transfer by operation of law, as a result of restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a Financing Order as, the Electrical Utility or Intermediary (as the case may be) under the Financing Order in the same manner and to the same extent as the Electrical Utility or Intermediary, including collecting and paying over the revenues, collections, payments or proceeds of the Securitization Property.

(2) Security interests in Securitization Property; Perfection and Priority

(a) Except as specified in this Section, the South Carolina Uniform Commercial Code does not apply to Securitization Property or any right, title, or interest of the Electrical Utility, any Intermediary or Assignee, whether before or after the issuance of the Financing Order. In addition, such right, title, or interest pertaining to a Financing Order, including, but not limited to, the associated Securitization Property and any revenues, collections, claims, rights to payment, payments, money or proceeds of or arising from Securitization Charges pursuant to such order, shall not be deemed proceeds of any right or interest other than in the Financing Order and the Securitization Property arising from the Financing Order.

(b) The creation, attachment, granting, perfection, priority, and enforcement of liens and security interests in Securitization Property to secure Securitization Bonds is governed solely by this Section and not by the South Carolina Uniform Commercial Code.

(c) A valid, enforceable, and attached lien and security interest in Securitization Property may be created only upon the latest of:

- i) The issuance of a Financing Order;
- ii) The execution and delivery of a security agreement with a Financing Party in connection with the issuance of Securitization Bonds;
or
- iii) The receipt of value for the Securitization Bonds.

A valid, enforceable, and attached security interest shall be perfected against third parties as of the date of filing of a Financing Statement in the filing office, as defined in Article 9 of the South Carolina Uniform Commercial Code, in accordance with Section 58-31-840(E)(2)(d), and shall thereafter be a continuously perfected lien; and such security interest in the Securitization Property and all proceeds of such Securitization Property, whether or not billed, accrued, or collected, and whether or not deposited into a deposit account and however evidenced, shall have priority in accordance with Section 58-31-840(E)(2)(h) and take precedence over any subsequent judicial or other lien creditor. No continuation statement need be filed to maintain such perfection.

(d) Financing Statements required to be filed pursuant to this Section shall be filed, maintained, and indexed in the same manner and in the same system of records maintained for the filing of Financing Statements in the filing office under Article 9 of the Uniform Commercial Code. The filing of such a Financing Statement shall be the only method of perfecting a lien or security interest on Securitization Property.

(e) The priority of a lien and security interest perfected under this paragraph is not impaired by any later modification of the Financing Order or Securitization Property or by the commingling of funds arising from Securitization Property with other funds, and any other security interest that may apply to those funds shall be terminated as to all funds transferred to a segregated account for the benefit of the Assignee or a Financing Party or to the Assignee or Financing Party directly.

(f) If a default or termination occurs under the terms of the Securitization Bonds, the Financing Parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any Securitization Property as if they were a secured party under Article 9 of the Uniform Commercial Code; and the State Circuit Court may order that amounts arising from Securitization Property be transferred to a separate account for the Financing Parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the Financing Parties to State Circuit Court such

court shall order the sequestration and payment to the Financing Parties of revenues arising from the Securitization Property.

(g) The interest of a Financing Party in an interest or any rights in any Securitization Property is not perfected until filing as provided in Section 58-31-840(E)(2)(d).

(h) The priority of the conflicting interests of Financing Parties in the same interest or rights in any Securitization Property is determined as follows:

i) Conflicting perfected interests or rights of Financing Parties rank according to priority in time of perfection. Priority dates from the time a filing covering the interest or right is made in accordance with Section 58-31-840(E)(2).

ii) A perfected interest or right of a Financing Party has priority over a conflicting unperfected interest or right of a Financing Party.

iii) A perfected interest or right of a Financing Party has priority over a Person who becomes a lien creditor after the perfection of such Financing Party's interest or right.

(3) The sale, assignment or transfer of Securitization Property is governed by this Section 58-31-840(E)(3). All of the following apply to a sale, assignment, or transfer under this subsection:

(a) The sale, conveyance, assignment or other transfer of Securitization Property by the Electrical Utility or Intermediary to the Assignee that the parties have in the governing documentation expressly stated to be a sale or other absolute transfer is an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the transferor's right, title, and interest in, to, and under the Securitization Property, other than for federal and state income and franchise tax purposes. After such a transaction, the Securitization Property is not subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest perfected under this Section 58-31-840(E)(3).

(b) The characterization of the sale, conveyance, assignment, or other transfer as a true sale or other absolute transfer under Section 58-31-840(E)(3)(a) and the corresponding characterization of the transferee's property interest is not affected by:

i) Commingling of amounts arising with respect to the Securitization Property with other amounts.

ii) The retention by the transferor of a partial or residual interest, including an equity interest, in the Securitization Property, whether direct or indirect, or whether subordinate or otherwise.

iii) Any recourse that the transferee may have against the transferor other than any such recourse created, contingent upon, or otherwise occurring or resulting from one or more of the transferor's customers' inability to timely pay all or a portion of the Securitization Charge.

iv) Any indemnifications, obligations, or repurchase rights made or provided by the transferor, other than indemnity or repurchase rights based solely upon a transferor's customers' inability to timely pay all or a portion of the Securitization Charge.

v) The responsibility of the transferor to collect Securitization Charges.

vi) The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or other purposes.

vii) Granting or providing to holders of the Securitization Bonds a preferred right to the Securitization Property or credit enhancement by the Electrical Utility, Intermediary, or their affiliates with respect to the Securitization Bonds.

(c) Any right that the Electrical Utility or Intermediary has in the Securitization Property prior to its pledge, sale or transfer or any other right created under this Section or created in the Financing Order and assignable under this Section or assignable pursuant to a Financing Order shall be property in the form of a contract right. Transfer of an interest in Securitization Property to the Assignee is enforceable only upon the later of the issuance of a Financing Order, the execution and delivery of transfer documents to the Assignee in connection with the issuance of Securitization Bonds, and the receipt of value. An enforceable transfer of an interest in Securitization Property to the Assignee shall be perfected against all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a Financing Statement in accordance with Section 58-31-840(E)(3)(d). The transfer shall be perfected against third parties as of the date of filing.

(d) Financing Statements required to be filed under this Section shall be maintained and indexed in the same manner and in the same system of records maintained for the filing of Financing Statements in the filing office under Article 9 of the South Carolina Uniform Commercial Code. The filing of such a Financing Statement shall be the only method of perfecting a transfer of

Securitization Property. No continuation statement need be filed to maintain such perfection.

(e) The priority of a transfer perfected under this Section is not impaired by any later modification of the Financing Order or Securitization Property or by the commingling of funds arising from Securitization Property with other funds, and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the Assignee or a Financing Party. If Securitization Property has been transferred to the Assignee or Financing Party, any proceeds of that property shall be held in trust for the Assignee or Financing Party.

(f) The priority of the conflicting interests of Assignees in the same interest or rights in any Securitization Property is determined as follows:

i) Conflicting perfected interests or rights of Assignees rank according to priority in time of perfection. Priority dates from the time a filing covering the transfer is made in accordance with Section 58-31-840(E)(3)(d).

ii) A perfected interest or right of an Assignee has priority over a conflicting unperfected interest or right of an Assignee.

iii) A perfected interest or right of an Assignee has priority over a Person who becomes a lien creditor after the perfection of such Assignee's interest or right.

(F) Description or indication of Securitization Property. The description of Securitization Property being transferred to the Assignee in any sale agreement, purchase agreement or other transfer agreement, granted or pledged to a Financing Party in any security agreement, pledge agreement or other security document, or indicated in any Financing Statement is only sufficient if such description or indication describes the Financing Order that created the Securitization Property and states that such agreement or Financing Statement covers all or part of such property described in such Financing Order. This subsection applies to all purported transfers of, and all purported grants or liens or security interests in, Securitization Property, regardless of whether the related sale agreement, purchase agreement, other transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any Financing Statement was filed, before or after the effective date of this Section.

(G) Financing Statements. All Financing Statements referenced in this Section shall be subject to Part 5 of Article 9 of the South Carolina Uniform Commercial Code except that the requirement as to continuation statements shall not apply.

(H) Statutory lien.

(1) Subsections (E), (F), and (G) of this Section 58-31-840 set forth the terms by which a consensual lien can be created and perfected in the Securitization Property. Unless otherwise ordered by the Commission with respect to a series of Securitization Bonds, there shall exist a statutory lien on the Securitization Property as provided in this Section 58-31-840(H). Upon the effective date of a Financing Order, there shall exist a first priority statutory lien on all Securitization Property, then existing or, thereafter arising, to secure the payment of the related Securitization Bonds. This lien shall arise pursuant to law by operation of this Section automatically without any action on the part of the Commission, the Electrical Utility, any Intermediary or other Financing Party. This lien shall secure the payment of all Securitization Costs, including all financing costs, then existing or subsequently arising, to the holders of the Securitization Bonds, the trustee or representative for the holders of the Securitization Bonds, and any other entity specified in the Financing Order or the documents relating to the Securitization Bonds. This lien shall attach to the Securitization Property regardless of who shall own, or shall subsequently be determined to own, the Securitization Property. This lien shall be valid and enforceable against the owner of the Securitization Property and all third parties upon the effectiveness of a Financing Order without any further public notice.

(2) The statutory lien on Securitization Property created by this Section is a continuously perfected lien on all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Securitization Property shall constitute property for all purposes, including for contracts securing Securitization Bonds, whether or not the revenues or proceeds arising with respect thereto have accrued.

(3) In addition, the Commission may require, in a Financing Order, that, in the event of default in payment of revenues arising with respect to the Securitization Property, the trustee, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the Securitization Property.

(I) Choice of law. The law governing the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any Securitization Property shall be the laws of this State, and exclusively, the provisions of this Section.

(J) State pledge.

(1) The State pledges to and agrees with Securitization Bondholders, the owners of the Securitization Property, other Financing Parties, the Electrical Utility and NextEra Energy, Inc. that the State will not:

(a) Alter the provisions of this Section that make the Securitization Charges imposed by a Financing Order irrevocable, binding and Non-bypassable charges;

(b) Take or permit any action that impairs or would impair the value of Securitization Property; or

(c) Except as allowed under this Section, reduce, alter, or impair Securitization Charges that are to be imposed, collected and remitted for the benefit of the Securitization Bondholders and other Financing Parties until any and all Securitization Costs, and any contracts to be performed, in connection with the related Securitization Bonds have been paid and performed in full.

(d) The pledge specified in Section 58-31-840(J)(1) confers a property right on the Electrical Utility, any other owner of Securitization Property, an Assignee, any Financing Party, and the holders of Securitization Bonds.

Nothing in this Section 58-31-840(J)(1) shall preclude limitation or alteration if adequate provisions are made by law for the protection of the Securitization Charges collected pursuant to a Financing Order and of the holders of Securitization Bonds and the Assignee or any Financing Party entering into a contract with the Electrical Utility.

(2) Any Assignee and issuer of Securitization Bonds may include the foregoing pledge specified in the bonds and related documentation.

(K) Securitization Bonds not public debt; imposition of taxes.

(1) The State and its political subdivisions are not liable on any Securitization Bonds, and the Securitization Bonds are not a debt nor a general obligation of the State or any of its political subdivisions, agencies, or instrumentalities. An issue of Securitization Bonds does not, directly, indirectly, or contingently obligate the State or any agency, political subdivision, or instrumentality of the State to levy any tax or make any appropriation for payment of the Securitization Bonds, other than in their capacity as consumers of electricity. This subsection does not preclude bond guarantees or enhancements pursuant to this Section. All Securitization Bonds must contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of South Carolina is pledged to the payment of the principal of, or interest on, this bond."

(2) The imposition, billing, collection and receipt of Securitization Charges under this Section are exempt from state income, sales, franchise, gross receipts, business and occupation and other taxes or similar charges.

(L) Securitization Bonds as legal investments with respect to investors that require statutory authority regarding legal investment. All of the following entities may legally invest

any sinking funds, moneys, or other funds belonging to them or under their control in Securitization Bonds:

(1) The State, the investment board, municipal corporations, political subdivisions, public bodies, and public officers, except for members of the Commission.

(2) Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business.

(3) Personal representatives, guardians, trustees, and other fiduciaries.

(4) All other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature.

(M) Not an electrical utility. The Assignee or any Financing Party shall not be considered an electrical utility or Person providing electric service by virtue of engaging in the transactions described in this Section.

(N) Conflicts. In the event of conflict between this Section and any other law regarding the attachment, assignment or perfection, or the effect of perfection, or priority of, assignment or transfer of, or security interest in Securitization Property, this Section shall govern to the extent of the conflict.

(O) Effect of invalidity on actions. Effective on the date that Securitization Bonds are first issued under this Article, if any provision of this Article is held to be invalid or is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not affect the validity of any action allowed under this Section that is taken by the Electrical Utility, any Intermediary, the Assignee, a Financing Party, a collection agent or a party to an Ancillary Financing Agreement; and any such action shall remain in full force and effect with respect to all Securitization Bonds issued or authorized in a Financing Order to be issued under this Section prior to the date that such provision is held to be invalid or is invalidated, superseded, replaced or repealed, or that expires for any reason.

SECTION 3. Section 58-27-865 is amended by adding at the conclusion, thereof subpart (H) as follows:

Section 58-27-865. “Fuel cost” defined; estimated fuel costs; rebuttable presumption; duties of commission

(H) In addition to the fuel costs defined in subsection (A) above, an electrical utility shall be permitted to recover its costs related to ad valorem property taxes in the proceedings held pursuant to this Section.

SECTION 4. Section 12-37-220 (B) is amended by adding at the conclusion thereof, subpart (53) as follows:

Section 12-37-220. General exemption from taxes.

(B) In addition to the exemptions provided in subsection (A), the following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

(53) the Acquired Assets during the Exemption Period as defined and provided in Section 58-31-800(A)(1);

SECTION 5. Section 12-4-720(A)(3) is amended to read as follows:

Section 12-4-720. Filing of Application for Exemptions.

(A) Applications for property exemptions, other than the exemption provided by Section 12-37-220(A)(9), must be filed as follows:

(3) Applications for exemption are not required for properties owned by the United States Government or those exempt properties enumerated in S.C. Code of Laws §§ 12-37-220(A)(1), (5), (6), (10), and (B)(9), (13), (14), (15), (17), (23), (25), (30) and (53).

SECTION 6. Section 58-40-10(D) is amended to read in full as follows:

Section 58-40-10. Definitions.

(D) “Electrical utility” shall be defined as in S.C. Code of Laws § 58-27-10; provided, however, that (i) electrical utilities serving fewer than one hundred thousand customer accounts, and (ii) the Electrical Utility defined in Section 58-31-710(23) of this Title shall be exempt from the provisions of this chapter.

SECTION 7. Section 36-9-109 (d) is amended by adding at the conclusion thereof, subpart (14) as follows:

Section 36-9-109 (d). This chapter does not apply to:

(14) the creation, perfection, priority, or enforcement of any sale, assignment of, pledge of, security interest in, or other transfer of, any interest or right or portion of any interest or right in any Securitization Property as defined in Section 58-31-710 (50).

SECTION 8. Conduct of Business of Authority during Interim Period.

In accordance with Section 7.1 of the Asset Purchase Agreement, which is approved and incorporated herein, between the date of enactment of this Act and the Closing Date, the Authority shall carry on and maintain its business and the Acquired Assets in the ordinary course consistent with past practices and its obligations under S.C. Code 58-31-10 *et. seq.*; and shall not engage in or allow any of the matters set forth in Section 7.1 of the Asset Purchase Agreement

without written notice to and prior approval from the Electrical Utility, which approval may not be unreasonably withheld, conditioned, or delayed.

SECTION 9. Release of Obligations; severability.

In the event that any portion of this Act is, prior to the Closing Date as defined in Section 2 hereof, determined to be invalid for any reason, then neither the State nor NextEra Energy, Inc., will be required to perform any contractual obligation to the other entered into pursuant to this Act. In the event that any portion of this Act is, after the said Closing Date, determined to be invalid for any reason, that determination shall not affect the validity or enforceability of any other provision.

SECTION 10. Conveyance of Property Interests from the Authority.

(A) The Authority shall take all actions required under the Asset Purchase Agreement and such other actions as are commercially reasonable and necessary to sell, assign, convey, transfer and deliver to NextEra Energy, Inc. or the Electrical Utility all of Authority's rights, titles, and interests in, to and under all of assets properties and rights, of every kind, nature, character and description (wherever located), whether real, personal or mixed, whether tangible or intangible, that are used or held for use by the Authority in connection with, or otherwise related to, the operation, ownership, and maintenance of the Acquired Electric Assets and Acquired Water Assets, and the sale and provision of electricity and water from those Acquired Assets, in accordance with the terms and conditions of the Asset Purchase Agreement. Subject to the terms and conditions of Asset Purchase Agreement, the Authority and NextEra Energy, Inc. shall take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable Laws to consummate and make effective the sale, transfer, conveyance, assignment and delivery of the Acquired Assets.

(B) In accordance with the terms of the Asset Purchase Agreement, to the extent any Acquired Asset cannot be transferred, the Authority shall retain title to that asset for the benefit of NextEra Energy, Inc. of the Electrical Utility and shall make said asset available to NextEra Energy, Inc. or the Electrical Utility as may be necessary to continue to provide the same level of service whether by providing access or executing appropriate documents to that end. All property interests retained by the Authority shall be deemed to continue their prior public purpose as long as those property interests continue to be used for the sale and provision of electricity and water from those retained property interests. All retained property interests shall be subject to tax in accordance with S.C. Code of Laws § 58-31-800.

SECTION 11. Conformity with and modification of Joint Resolution A 95 of 2019.

The actions of the Department of Administration and of the participants in the processes that resulted in the transactions described in and authorized by this Act, including without limitation the Asset Purchase Agreement defined in Section 58-31-710 as hereby enacted, are declared to be in conformity with Joint Resolution A 95 of 2019. To the extent that any of the processes directed by the Department of Administration under said Joint Resolution, the actions

of participants in those processes, the terms and provisions of this Act, or the terms and provisions of the transactions described in or authorized by this Act, including without limitation said Asset Purchase Agreement, are deemed to be contrary to said Joint Resolution, those terms of said Joint Resolution are hereby repealed. The terms of said Joint Resolution shall not be a basis for any challenge to the transactions described in and authorized by this Act, including without limitation the Asset Purchase Agreement.

SECTION 12. Effective Date.

This act takes effect upon approval by the Governor or its treatment as approved under Article IV, Section 21, of this State's Constitution.

EXHIBIT O

ECONOMIC GRANTS PROGRAMS

[To Come]

EXHIBIT P

PRODUCT DEVELOPMENT ACTIVITIES

[To Come]

EXHIBIT Q

FERC PROJECT GENERATION ASSETS

[To Come]

EXHIBIT R

FORM OF REQUIRED CEU FINANCING ORDER

[Attached]

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2020- – ORDER NO. 2020-
XXXX, 2020

IN RE: THE FINANCING OF THE SALE OF CERTAIN ELECTRIC ASSETS OF
SOUTH CAROLINA PUBLIC SERVICE AUTHORITY TO NEXTERA ENERGY, INC.
THROUGH THE ISSUANCE OF SECURITIZATION BONDS PURSUANT TO ACT
NO. XX
(CEU FINANCING ORDER)

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INTRODUCTION

This financing order addresses the request of the Electrical Utility (the “**Electrical Utility**” or “**Petitioner**”) under Act No. XX of the General Assembly of the State of South Carolina (the “**Act**”), codified at [XX] to issue a financing order, substantially in the form attached to Asset Purchase Agreement referred to below: (1) authorizing the Electrical Utility to finance, through the issuance of securitization bonds (the “**Bonds**”, “**Securitization Bonds**” or “**CEU Securitization Bonds**”), in an aggregate principal amount of approximately \$xx million, a portion of the pre-tax costs incurred by NextEra Energy, Inc. (the “**Buyer**”) or the Electrical Utility in connection with the acquisition of the electric assets of South Carolina Public Service Authority (the “**Authority**”), including certain financing costs associated with the issuance and structuring of the Securitization Bonds (“**Securitization Costs**” or “**CEU Securitization Costs**”; (2) approving the issuance of the Securitization Bonds; (3) creating securitization property, including the right to impose and collect non-bypassable securitization charges (“**Securitization Charges**” or “**CEU Securitization Charges**”), on end-use customers of contractors with Central (“**Customers**” or “**CEU Customers**”) sufficient to pay the securitization bonds and associated financing costs; (4) approving a methodology for allocating the costs of the Securitization among CEU Customers and a mechanism to adjust the Securitization Charges as required or permitted by this Financing Order; (5) approving servicing and sub-servicing arrangements to provide for the imposition, collection and remittance of the Securitization Charges; and (6) authorizing certain related actions.

This proceeding is a part of the Omnibus Proceeding, authorized by Section 58-71-730 of the Code of Laws of South Carolina 1976 (the “**Code**”), pursuant to which this Commission, within a consolidated single-docket, grants and separately issues all orders necessary or appropriate to authorize and enable the sale of the assets of the Authority (the “**Sale**”) pursuant to the Act and an asset purchase agreement dated XX, (the “**Asset Purchase Agreement**”) by and between the Department of Administration, on behalf of the Authority, and the Buyer. Pursuant to Section 58-31-840 of the Code, the Electrical Utility has petitioned the Commission, pursuant to a Petition filed on XX, XX (the “**Petition**”) to issue a financing order, consistent with the Act and substantially in the form of the financing order included with the Asset Purchase Agreement,

subject only to such changes that are acceptable to the Electrical Utility. As required by Section 58-31-840, Central and the Central Contractors, listed in Appendix [x] (the “**Central Contractors**”) have been made a party to this proceeding and the Central Contractors have duly appointed Central to serve as their attorney-in-fact for the purposes of this proceeding.

Pursuant to the Petition, we issued this financing order, which we find to be consistent with the Act and substantially in the form of the CEU financing order (“**Petitioner’s proposed financing order**”) attached to the Asset Purchase Agreement. To facilitate compliance and consistency with the Act, this financing order adopts the definitions in the Act.

I. DISCUSSION AND STATUTORY OVERVIEW

On May 21, 2019, the General Assembly of the State of South Carolina (the “**General Assembly**”) passed, and on May 22, 2019 the Governor of the State of South Carolina approved, a Joint Resolution pursuant to which the South Carolina Department of Administration (the “**Department of Administration**”) established a process to receive competitive proposals for a possible sale of some or all of the assets of the Authority, management proposals designed to improve the efficiency and cost-effectiveness of Authority’s electric operations, and Authority’s proposal for reform, restructuring, and changes in operation.

On November 26, 2019, the Department of Administration received bids for sale, including the bid by the Buyer, a Florida corporation, for purchase (“**Buyer’s Bid**”), and management proposals, as well as the Authority’s proposal for reform, restructuring, and changes in operation. On [●], Buyer and the Department of Administration entered into that certain Agreement to Transact obligating Buyer to comply with the terms of Buyer’s Bid and to execute the Asset Purchase Agreement in the event Buyer’s Bid was approved by the General Assembly.

The Department of Administration, as required by the Joint Resolution, (a) evaluated the bids for sale and management proposals received and verified and analyzed Authority’s reform proposal; (b) facilitated the conduct of confidential negotiations between Central Electric Power Cooperative Inc. (“**Central**”), on the one hand, and the participants in the Bidding Process (including Buyer), individually, on the other hand; and (c) concurrently presented

recommendations of and justifications for Buyer's Bid, one management proposal, and the Authority's proposal to the Chairman of the Senate Finance Committee and the Chairman of the House of Representatives Ways and Means Committee.

On XX, 2020, the General Assembly passed, and on XX, 2020 the Governor of the State of South Carolina approved the Act which, among other things, approved Buyer's Bid, including the terms set forth in the Asset Purchase Agreement and directed the sale of certain assets of the Authority to Buyer as described in the Asset Purchase Agreement.

The terms of the Asset Purchase Agreement require, among other conditions to the purchase, that a portion of the purchase price for the Acquired Electric Assets (as defined in the Asset Purchase Agreement) in the cumulative amount of \$1.325 billion Securitization Costs be financed through two securitization transactions, which, pursuant to the Act, shall be allocated between CEU Customers and R&M Customers, as defined in the Act, based on the historical three (3) year average of annual sales volumes of each set of customers subject to Securitization Charges. The Act included provisions (including specifically Section 58-31-840 of the Code) authorizing the Commission to issue two financing orders authorizing these securitization transactions. It is a condition to the Sale that these financing orders be final, binding and non-appealable.

This financing order, referred to in the Act and herein as the CEU financing order, is one of these two required financing orders.

In this financing order, we authorize the recovery of [\$XX million] of CEU Securitization Costs, based on the allocation of the Securitized Costs required by the Act, including an estimated [\$xx million] of costs of issuance and other financing costs which will be incurred in advance of, or in connection with, the issuance of the securitization bonds (collectively, "**Upfront Securitizations Costs**", as more fully described herein), through the issuance of the CEU Securitization Bonds in a transaction described in this financing order. Under the Act, the costs of repaying the CEU Securitization Bonds, together with associated financing costs (herein referred to as "**Ongoing Securitization Costs**", as more fully described in herein) will be paid from Securitization Charges imposed upon all CEU Customers until the CEU Securitizations Bonds and all Ongoing Financing Costs are paid in full. The rights under this financing order to

impose, bill, collect and receive Securitization Charges, including the right to obtain periodic adjustments to such charges pursuant to the Adjustment Mechanism (hereinafter referred to) constitutes CEU Securitization Property, as more fully described in the Act.

Under the Act, CEU Customers mean any Person in South Carolina that is an end-user of electricity and receives transmission or distribution services from a Central Contractor (whether such service is within the Central Contractor's service area as granted by State law or pursuant to a municipal franchise).

Under the Act, the Securitization Charges are non-bypassable, meaning that the Securitization Charge cannot be avoided by a CEU Customer, and must be paid by the CEU Customer, regardless of whether the CEU Customer purchases its electricity from an alternative electricity provider and regardless of who generates that electricity. This financing order requires that any CEU Customer who self-generates their electricity must pay the Securitization Charges to the extent that such energy, or supplemental or emergency back-up power, is transmitted through use of a Central Contractor or other Intermediary's delivery system.

The Securitization Charges must be imposed on all CEU Customer bills and collected by Central, or a Central Contractor, or other collection agent that invoices and collects from the CEU Customer for electricity (under the Act, "**Intermediaries**"), as described in this financing order. The Securitization Charges must be imposed and collected until all the CEU Securitizations Bonds and all Ongoing Financing Costs are paid in full.

Under the Act, Central and each Central Contractor is made subject to the limited jurisdiction of the Commission solely for our consideration, adoption, oversight, and enforcement of this CEU financing order, including but not limited to the imposition, collection and use of CEU Securitization Charges, as authorized in this Article and by this financing order. The Electrical Utility or other interested party, including the Office of Regulatory Staff, may bring an action in State Circuit Court to enforce this financing order or any servicing, sub-servicing, or collection agent agreement authorized hereunder.

Under the Act, the Securitization Charges must be subject to periodic adjustment from time to time pursuant to an Adjustment Mechanism, to ensure the timely payment of the

Securitization Bonds and all Ongoing Securitization Costs. The Adjustment Mechanism is a formula-based mechanism for making expeditious periodic adjustments in the Securitization Charges that CEU Customers are required to pay under a financing order where such adjustments are necessary to correct for any over-collection or under-collection of the Securitization Charges or otherwise to ensure the timely payment of the Securitization Bonds and Ongoing Securitization Costs.

Under the Act, the State of South Carolina has pledged to and agreed with the securitization bondholders, the owners of the Securitization Property, the Buyer, and other financing parties that the State will not:

- (1) alter the provisions of the Act which authorize the Commission to make the Securitization Charges imposed by a financing order irrevocable, binding, and non-bypassable charges;
- (2) take or permit any action that impairs or would impair the value of the Securitization Property created pursuant to this financing order; or
- (3) except for adjustments pursuant to the Adjustment Mechanism, reduce, alter, or impair Securitization Charges that are to be imposed, collected, and remitted for the benefit of the bondholders and other financing parties, as applicable, until the Securitization Bonds and all Ongoing Financing Costs, and any contracts to be performed, in connection with the Securitization Bonds have been paid and performed in full.

After the earlier of the transfer of Securitization Property to an assignee or the issuance of securitization bonds authorized by this financing order, this financing order is irrevocable until all Securitization Bonds and Ongoing Securitization Costs, and any contracts to be performed, in connection with the Securitization Bonds have been paid and performed in full. Except in connection with a refinancing or refunding of the Securitization Bonds, or to implement the Adjustment Mechanism, the Commission may not amend, modify, or terminate this financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust securitization charges approved in this financing order.

Nothing in the State and Commission agreements described above precludes a limitation or alteration in this financing order and the securitization property if and when full compensation is made for the full protection of the Securitization Charges collected pursuant to this financing order and the full protection of the Securitization Bondholders and any Assignee or Financing Party.

II. DESCRIPTION OF CEU SECURITIZATION TRANSACTION

A brief summary of the CEU securitization transaction and the authorizations granted under this financing order is provided in this section. The securitization transaction and authorizations are more fully described in the Findings of Fact and Ordering paragraphs of this financing order. In this financing order, we authorize the Electrical Utility to securitize and to cause Securitization Bonds to be issued, in an aggregate principal amount equal to the sum of: (a) \$xxx million of CEU Securitization Costs to fund the financing or refinancing of Securitization Activities, plus (b) the Upfront Securitization Costs associated with the issuance of the Securitization Bonds, which are estimated to be \$xx million, plus (c) any other Upfront Securitization Costs associated with obtaining any credit enhancements and other mechanisms designed to promote the credit quality and marketability of the Securitization Bonds. The estimated or final Upfront Securitization Costs will be determined by the Electrical Utility at or about the time of sale of the Securitization Bonds and identified in an Issuance Advice Letter, as described herein.

To facilitate the securitization, the CEU Securitization Bonds will be issued by a special purpose securitization funding entity (the “SPE”) created as a wholly-owned subsidiary of the Electrical Utility. The SPE will be organized and managed in a manner designed to maintain the SPE as a bankruptcy-remote entity that would not be affected by the bankruptcy of the Electrical Utility or any other affiliates of the Electrical Utility or any of their respective successors or assignees, as described in this financing order.

Simultaneous with the issuance of the CEU Securitization Bonds, the Electrical Utility will transfer the CEU Securitization Property created in the Electrical Utility, which includes the right to impose, collect, and receive CEU Securitization Charges along with the other rights arising pursuant to this financing order, to the SPE. The Securitization Bonds will be issued

pursuant to an indenture and administered by an indenture trustee. The Securitization Bonds will be secured by and payable solely out of the CEU Securitization Property created pursuant to this financing order and other collateral held pursuant to an indenture. That collateral will be pledged by the SPE to the indenture trustee for the benefit of the holders of the Securitization Bonds and to secure payment due with respect to the bonds and the Ongoing Financing Costs relating to the bonds.

Pursuant to a servicing agreement, the Electrical Utility will act as the initial master servicer of the securitization charges for the SPE (in such capacity, the “**Servicer**”), will undertake to collect such charges from the CEU Customers and will remit, or cause those collections to be remitted, to the indenture trustee on behalf of and for the account of the SPE. The Servicer will be responsible for making, or cause to be made, any required or allowed true-ups of the securitization charges. Because the CEU Customers are not retail customers of the Electrical Utility, but instead are retail customers of the Central Contractors, which, in turn, are currently wholesale customers of Central, a bifurcated servicing arrangement is authorized by this financing order. Under this arrangement, Central will serve master sub-servicer, and will notify the Central Contractors of the Securitization Charge, which will be adjusted from time to time by the Electrical Utility based upon the Adjustment Mechanism and the usage information provided by the Central Contractors. The Central Contractors, in turn, will bill and collect the securitization charge from the CEU Customers using their normal collection procedures. Further, the Electrical Utility proposes that the Central Contractors, so long as such Contractors are Central wholesale customers, will remit the Securitization Charges as part of their normal monthly payment to Central. Central, in turn, will agree to allocate the first revenues received from the Central Contractors to the Securitization Charge, and remit the Securitization Charges to the bond trustee within two business days of receipt from the Central Contractors. In the event that the Central Contractor is no longer a customer of Central, the Central Contractor will be required to remit the Securitization Charges directly to the Servicer. If the Servicer defaults on its obligations under the servicing agreement, the indenture trustee may appoint a replacement servicer subject to the terms of this financing order. If Central or any of the Central Contractors default in their servicing obligations, the Electrical Utility may exercise its remedies, including termination under the sub-servicing arrangements, and upon request of the Electrical Utility, this

Commission will enforce those sub-servicing obligations, as required by the Act and this financing order.

In this financing order, we find the transaction structure and servicing arrangements as proposed by the Electrical Utility to be consistent with the Act and the Asset Purchase Agreement, and so approves them.

Securitization Charges will be calculated to be sufficient at all times to pay all debt service on the Securitization Bonds and the Ongoing Financing Costs on a timely basis. Pursuant to this financing order, the Securitization Charges will be a consumption-based (per kWh charge) calculated pursuant to the methodology described in Appendix B to this financing order. The Securitization Charges will be adjusted semi-annually or, following the scheduled final maturity of the Securitization Bonds, quarterly to ensure that the amount projected to be collected from Securitization Charges is sufficient to service the Securitization Bonds. The methodology for calculating the securitization charges is illustrated in Appendix B and the form of true-up notice letter is attached as Appendix D.

In this financing order, we find this methodology and the Adjustment Mechanism consistent with the Act and the Asset Purchase Agreement and so approve it.

Under the Act, we must specify the flexibility afforded to the Electrical Utility, consistent with the Asset Purchase Agreement, in establishing the final terms and conditions and pricing of the Securitization Bonds, including, but not limited to, repayment schedules, interest rates, redemption or repayment provisions, credit enhancements and other costs of issuance and financing costs, as well as the manner by which the Securitization Bonds are offered and sold. In this financing order, we grant great flexibility to the Electrical Utility on these matters, subject to an information filing made to us pursuant to the Issuance Advice Letter.

As noted in this financing order, we grant the Electrical Utility the right to recover, through securitization, Upfront Securitization Costs associated with the issuance of the Securitization Bonds. These Upfront Securitization Costs are estimated to be \$xx million, plus the costs of any credit enhancements and other mechanisms designed to promote the credit quality and marketability of the Securitization Bonds. These Upfront Securitization Costs, are

described in greater detail in this financing order, including Appendix C hereto. While the Electrical Utility has provided estimates of such Upfront Securitization Costs, many of the costs will not be known until the issuance of the Securitization Bonds or even thereafter, when final invoices are submitted. In this financing order, we find that the Upfront Securitization Costs identified in the financing order to be consistent with the Act, and grant the Electrical Utility flexibility to recover all such costs (as finally incurred), subject only to an information filing of the Issuance Advice Letter.

In addition, in this financing order, we also grant to the Electrical Utility the flexibility to include hedges, credit enhancements, reserves or over-collateralization mechanisms designed to promote the credit quality and marketability of the CEU Securitization Bonds (collectively “**Credit Enhancements**”), and recover the costs of such Credit Enhancements, from bond proceeds for Securitization Charges, as described in this financing order. In addition, as further described in this financing order, we also grant the Electrical Utility to determine, based upon the advice of counsel, the equity contribution required to be invested by Electrical Utility in the SPE to achieve the desired “debt-for-tax” treatment for the Securitization Bonds. We also approve the Electrical Utility’s right to a return on its investment in the SPE in an amount equal to the equal to the interest rate on the longest maturing tranche of Securitization Bonds, as further described herein.

In this financing order, including Appendix C, we describe, in detail the Ongoing Securitization Costs which will be incurred by the SPE in connection with the repayment, administration and servicing of the Securitization Bonds. These Ongoing Securitization Costs must be recovered through the Securitization Charges, subject to the periodic true-up of those charges as provided in this financing order. The Electrical Utility estimates that the Ongoing Securitization Costs (exclusive of debt service on the Securitization Bonds) will be approximately \$XX for the first year following the issuance of the Securitization Bonds if the Electrical Utility, Central and the Central Contractors serve as master servicer, master sub-servicer and sub-servicers, respectively. The servicing costs could be significantly higher if any of the Electrical Utility, Central or the Central Contractors default in their respective servicing obligations, and replacement servicers or sub-servicers are required. The Commission finds that the recovery of these Ongoing Securitization Costs, as incurred, is consistent the Act and the

Asset Purchase Agreement and authorizes their recovery from Securitization Charges, as such charges are adjusted from time to time through the Adjustment Mechanism.

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III. FINDINGS OF FACT

A. Identification and Procedure

1. Identification of Applicant and Intermediaries

1. [The Electrical Utility is an indirect, wholly-owned subsidiary of NextEra Energy, Inc. licensed to operate as an electric utility in the State
2. Central is an electric cooperative formed under Sections 33-49-10 et seq. of the Code.
3. [The Central Contractors are identified in Appendix XX are each electric cooperatives formed under Sections 33-49-10 et seq. of the Code or municipalities formed under Section XX of the Code.]

2. Procedural History [to come]

4. On XX, the Electrical Utility filed a Petition with the Commission requesting the issuance of a financing order substantially in the form attached to the Asset Purchase Agreement.
5. [Describe procedural history]
6. On [DATE], the Commission issued this financing order.

B. Financing Costs and Amount to be Securitized

1. Securitization Costs

7. Securitization Costs as defined in the Act include the [pre-tax] costs incurred or to be incurred by the Buyer or the Electrical Utility, to finance or refinance, directly or indirectly, a portion of the cost of the Securitization Activity. Securitization Activity is defined in the Act to include the purchase of the Acquired Electric Assets by the Electrical Utility and other action taken pursuant to the Asset Purchase Agreement and the satisfaction of all conditions precedent to such purchase, include costs associated with undertaking a Securitization Activity.
8. The Buyer or the Electrical Utility has incurred or will incur pre-tax Securitization Costs in the aggregate amount of [\$xx billion], exclusive of Upfront

Securitization Costs, in connection with the acquisition of the Acquired Electric Assets, and has requested the recovery of [\$mm] of these costs through the issuance of CEU Securitization Bonds. These costs have been allocated to CEU Customers based upon the three (3) year average of annual sales volumes, constitute CEU Securitization Costs under the Act and are eligible for recovery pursuant to this financing order.

2. Upfront and Ongoing Securitization Costs

9. Upfront Securitization Costs are those costs that will be incurred in advance of, or in connection with, the issuance of the Securitization Bonds, and those costs will be recovered, funded or reimbursed from Securitization Bond proceeds, as provided in this financing order. Upfront Securitization Costs include, without limitation, underwriting costs (fees and expenses), rating agency fees, costs of obtaining Credit Enhancements, including swap and hedge transactions (if any), fees and expenses of the Electrical Utility's legal advisors and any legal advisors to Central or the Central Contractors, fees and expenses of the financial advisor to the Electrical Utility, SEC registration fees (if any), original issue discount, external servicing and subservicing costs (including the costs of Central, the Central Contractors or any other Intermediary or collection agent), fees and expenses of the trustee and its counsel (if any), servicer and sub-servicer set-up costs, printing and filing costs, set-up costs relating to the SPE, costs and expenses of the Electrical Utility, Central and the Central Contractors of obtaining this financing order, and miscellaneous administrative costs.
10. Ongoing Securitization Costs are those that will be incurred annually to support and service the Securitization Bonds after issuance, and those costs will be recovered or paid from Securitization Charges. Ongoing Securitization Costs include, among other costs, the fees and expenses of the Servicer and subservicing fees and expenses of Central and the Central Contractors (or any other Intermediary or collection agent), administrative fees, fees and expenses of the trustee and its counsel (if any), external accountants' fees, external legal fees and expenses, ongoing costs of any Credit Enhancement (if any), independent

manager's fees, rating agency fees, printing and filing costs, true-up administration fees, and other miscellaneous costs.

11. The initial servicing fee of the initial Servicer and sub-servicers, being the Electrical Utility and Central and each of the Central Contractors will be fixed by contract. The administration fee charges by the Electrical Utility will also be fixed by contract. The remaining Ongoing Securitization Costs that will be incurred in connection with the Securitization Bonds are outside the control of the Electrical Utility, since the Electrical Utility cannot control the administrative, legal and other fees to be incurred by other parties on an ongoing basis. All actual Ongoing Securitization Costs as incurred will be recoverable through the Securitization Charges.
12. The Electrical Utility, in Appendix C, has provided estimates of Upfront Financing Costs totaling approximately \$____ million, including the cost of Credit Enhancements designed to promote the credit quality and marketability of the securitization bonds, if any. The Electrical Utility has also provided estimates of the Ongoing Financing Costs for the first year following the issuance of the Securitization Bonds in Appendix C, which are approximately \$_____, assuming the Electrical Utility is the servicer, and Central and the Central Contractors are the master sub-servicer and sub-servicers, respectively. The Electrical Utility will update the Upfront Securitization Costs and Ongoing Securitization Costs in the Issuance Advice Letter.

3. Amount to be Securitized

13. The Electrical Utility has requested and should have the authority to cause Securitization Bonds to be issued in an aggregate principal amount equal to the sum of: (a) \$xxx million of CEU Securitization Costs to fund the financing or refinancing of Securitization Activities, plus (b) the actual Upfront Securitization Costs for the Securitization Bonds incurred in the transaction, which are estimated to be \$xx million, plus (c) any other Upfront Securitization Costs associated with obtaining any credit enhancements and other mechanisms designed to promote the credit quality and marketability of the Securitization Bonds (i.e., Credit

Enhancement). The total principal amount of the Securitization Bonds so issued, including the cost of any Credit Enhancement, will be set forth in the Issuance Advice Letter.

4. Issuance Advice Letter; Upfront Securitization Cost Filing

14. Because the Petition reflects the terms of an Asset Purchase Agreement which has been fully negotiated among the Buyer, the Electrical Utility, and the Authority, and because Central and Central Contractors have been parties to this proceeding, we great grant great flexibility to the Electrical Utility to determine the final structure and terms of the securitization bonds and their pricing, the amount of Upfront Securitization Costs and the Ongoing Securitization Costs which will be incurred in connection with the securitization bonds, and as well as the manner by which the Securitization Bonds are offered and sold.
15. Following the determination of the final terms and structure of the Securitization Bonds, the Electrical Utility will file with the Commission Clerk, at least two business days prior to the issuance of the Securitization Bonds, an Issuance Advice Letter in substantially the form attached as Appendix A to this financing order. The Issuance Advice Letter will be an informational filing only and will include the estimated Upfront Securitization Costs, the estimated Ongoing Securitization Costs for the first year following issuance of the bonds, a calculation of the initial Securitization Charge, as well as a description of the final terms and pricing of the Securitization Bonds, including principal amount, interest rates, redemption provisions and other details, as required by the Issuance Advice Letter.
16. Upon filing the Issuance Advice Letter with the Commission Clerk, the Electrical Utility will be irrevocably authorized to proceed with the issuance of the Securitization Bonds described in the Issuance Advice Letter. The Commission Clerk will provide acknowledgement of receipt of the Issuance Advice Letter at the request of the Electrical Utility.
17. Within 90 days of the filing of the Issuance Advice Letter, the Electrical Utility will submit to the Commission a final accounting of its Upfront Securitization

Costs. If the actual Upfront Securitization Costs are less than the Upfront Securitization Costs included in the principal amount financed, the Periodic Billing Requirement (as defined in Finding of Fact 58) for the first semi-annual true-up adjustment shall be reduced by the amount of such unused funds (together with income earned thereon through investment by the trustee in eligible investments) and such unused funds (together with income earned thereon through investment by the trustee in eligible investments) shall be available for payment of debt service on the bond payment date next succeeding such true-up adjustment. If the actual Upfront Securitization Costs are more than the Upfront Securitization Costs included in the principal amount securitized, the Periodic Billing Requirement for the next semi-annual true-up adjustments shall be increased by the amount of such deficiency and the Electrical Utility will be permitted to recover such costs in a manner subordinate to the payment of the Securitization Bonds, all as provided in the financing documents.

C. Structure of the Proposed Financing

1. The Issuer

18. For purposes of this securitization, the Electrical Utility will create the SPE, a special purpose securitization funding entity which will, be a South Carolina limited liability company with the Electrical Utility as its sole member. The SPE will be formed for the limited purpose of acquiring the CEU Securitization Property, issuing the CEU Securitization Bonds (which may include securitization bonds authorized by the Commission in a subsequent financing order to refinance the CEU Securitization Bonds), and performing other activities relating thereto or otherwise authorized by this financing order. The SPE will not be permitted to engage in any other activities and will have no assets other than the CEU Securitization Property and related assets to support its obligations under the Securitization Bonds. Obligations relating to the CEU Securitization Bonds will be the SPE's only significant liabilities. These restrictions on the activities of the SPE and restrictions on the ability of the Electrical Utility to take action on the SPE's behalf are imposed to achieve the objective of ensuring that the SPE will be

bankruptcy-remote and not affected by a bankruptcy of the Electrical Utility or any related entity. The SPE will be managed by a board of managers with rights and duties similar to those of a board of directors of a corporation. As long as the CEU Securitization Bonds remain outstanding, the SPE will have at least one independent manager with no organizational affiliation with Electrical Utility other than acting as independent managers for any other bankruptcy-remote subsidiary of Electrical Utility or its affiliates. The SPE will not be permitted to amend the provisions of the organizational documents that ensure bankruptcy-remoteness of the SPE without the affirmative vote of a majority of its managers, which vote must include the affirmative vote of all the independent managers. Similarly, the SPE will not be permitted to institute bankruptcy or insolvency proceedings or to consent to the institution of bankruptcy or insolvency proceedings against it, or to dissolve, liquidate, consolidate, convert, or merge without the prior unanimous consent of its managers. Other restrictions to ensure bankruptcy-remoteness may also be included in the organizational documents of the SPE as required by the rating agencies.

19. The initial capital of the SPE will be a nominal amount of \$100. Concurrently with the issuance of the CEU Securitization Bonds, a capital contribution will be invested by Electrical Utility in the SPE. Due to the fact that the securitization transaction differs from the typical “retail” utility securitization, the Electrical Utility the contribution to the SPE may be higher than the $\frac{1}{2}$ of 1% of the original principal amount of the CEU Securitization Bonds, and may be as high as 2-3% of the original principal amount of the CEU Securitization Bonds, to assure the desired federal income tax treatment for the securitization bond transaction. The Electrical Utility will determine the required level of capital funding for the SPE in reliance upon the opinion of nationally recognized tax counsel, and will be entitled to a return on its equity investment equal to the interest rate on the longest maturing tranche of Securitization Bonds, which will be paid an Ongoing Securitization Cost from Securitization Charges.
20. The use and proposed structure of the SPE and the limitations related to its organization and management, as described herein, are consistent with the Act

and other utility securitizations and Petitioner's draft financing order and should be approved. In addition, the funding of the SPE at a level determined by special tax counsel is reasonable, consistent with the Act and Petitioner's proposed financing order, and should be approved.

2. Structure and Documents

21. The SPE will issue Securitization Bonds consisting of one or more tranches, in an aggregate amount not to exceed the principal amount approved by this financing order and will pledge to the indenture trustee, as collateral for payment of the Securitization Bonds, the CEU Securitization Property, including the SPE's right to receive the Securitization Charges as and when collected, and certain other collateral described in the Indenture (hereinafter referred to).
22. Concurrent with the issuance of any of the Securitization Bonds, the Electrical Utility will transfer to the SPE all of the Electrical Utility's rights under this financing order, including without limitation, the rights to impose, collect, and receive the CEU Securitization Charges approved in this financing order, but excluding the Electrical Utility's right to recover remaining Upfront Securitization Costs under Finding of Fact 17 (the "**Electrical Utility Retained Rights**"). This transfer will be structured so that it will qualify as a true sale within the meaning of Section 58-31-840(E)(3) of the Code. By virtue of the transfer, the SPE will acquire all of the right, title, and interest of the Electrical Utility's in such CEU Securitization Property.
23. The payment of the CEU Securitization Charges authorized by this financing order will be at all times sufficient to pay the principal of and interest on the Securitization Bonds, together with Ongoing Securitization Costs. The Securitization Bonds will be issued pursuant to the indenture administered by the indenture trustee. The indenture will include provisions for a collection account and subaccounts for the collection and administration of the securitization charges and payment or funding of the principal and interest on the Securitization Bonds and other financing costs in connection with the Securitization Bonds. Any securitization charge revenues not required for the current payment of principal

and interest due on the bonds, together with Ongoing Securitization Costs, including but not limited to the funding of any overcollateralization or reserve account or other Credit Enhancements, will be available to pay such amounts in a future period.

24. The Electrical Utility has prepared and submitted as part of the Petition proposed forms of an Indenture, a Limited Liability Electrical Utility Operating Agreement (for the SPE), a Purchase and Sale Agreement, an Administration Agreement, a Servicing Agreement, a Master Subservicing Agreement (between The Electrical Utility and Central) and a Subservicing Agreement (between Central, The Electrical Utility and each Central Contractor) (the Servicing Agreement, Master Subservicing Agreement and the Subservicing Agreements are collectively referred to as the “**Servicing Documents**”, and collectively with the other documents, the “**Basic Transaction Documents**”), setting out in substantial detail terms and conditions relating to the transaction and security structure. We find the Basic Transaction Documents consistent with the Act and grant the Electrical Utility the flexibility to amend such documents as necessary or appropriate, in the opinion of the Electrical Utility, to conform to market conditions, rating agency requirements or to conform to the final terms of the Securitization Bonds.
25. The Electrical Utility’s will also prepare a proposed form of offering memorandum, term sheet or other offering documents to be used in connection with the offering and sale of the Securitization Bonds. These offering materials will be provided to the Commission and the Office of Regulatory Staff upon request for informational purposes.

3. **Credit Enhancement and Arrangements to Enhance Marketability**

26. The Electrical Utility requests authority to use additional forms of credit enhancement (including hedging arrangements, letters of credit, reserve or overcollateralization accounts, surety bonds, or guarantees) and other mechanisms designed to promote the credit quality and marketability of the securitization bonds or to stabilize rates or provide other benefits to customers (as herein, “**Credit Enhancements**”). The Electrical Utility will describe such Credit

Enhancements in the Issuance Advice Letter, and the costs of any Credit Enhancements will be included in the amount of Upfront Securitization Costs or as Ongoing Financing Costs, as appropriate. The Electrical Utility should be permitted to employ Credit Enhancements to enhance marketability or credit quality of the Securitization Bonds, and to recover the Upfront Securitization Costs and Ongoing Securitization Costs associated therewith, provided that in the Issuance Advice Letter, the Electrical Utility states its reasonable belief (which may be based solely upon the advice of its financial advisor or investment banker) that such Credit Enhancement is likely to provide benefits greater than its costs. This finding does not apply to the collection account, or its subaccounts, including any reserve account, which are otherwise approved in this financing order.

27. The Electrical Utility's proposed use of Credit Enhancements, including hedging arrangements, is consistent with the Act and Petitioner's proposed financing order and should be, approved, subject to the informational filing in the Issuance Advice Letter.

4. Securitization Property

28. Pursuant to Section 58-31-71(52) of the Code, the CEU Securitization Property consists of the following:
 - (1) the rights and interests of the Electrical Utility or the successor or assignee of the Electrical Utility under this financing order, including the right to impose, bill, charge, collect, and receive CEU Securitization Charges authorized in this financing order and to obtain periodic adjustments to such charges pursuant to the Adjustment Mechanism as are provided in this financing order, except for the Electrical Utility Retained Rights, and
 - (2) all revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the first numbered bullet of this Paragraph, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or

commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

29. Pursuant to Section 58-31-840(B)(3), the creation of the CEU Securitization Property will be simultaneous with the sale of the CEU Securitization Property to the SPE and the pledge of the Securitization Property to secure payment of the Securitization Bonds.
30. Pursuant to Section 58-31-840(E)(1)(b) of the Code, the CEU Securitization Property created by this financing order will continue to exist until the Securitization Bonds issued pursuant to this financing order and all Ongoing Securitization Costs are paid in full
31. The CEU Securitization Property and all other collateral will be held (in pledge) and administered by the indenture trustee pursuant to the Indenture.

5. Servicers and the Servicing Arrangements

32. Pursuant to the Servicing Agreement, the Electrical Utility will act as the initial Servicer of the securitization charges for the SPE and will undertake to collect or cause such charges to be collected from the CEU Customers and will remit, or cause those collections to be remitted, to the indenture trustee on behalf of and for the account of the SPE. The Servicer will be responsible for making, or causing to be made, any required or allowed true-ups of the securitization charges.
33. Because the CEU Customers are not retail customers of the Electrical Utility, but instead of retail customers of the Central Contractors, which are in turn customers of Central, the servicing arrangements authorized by this financing order will include a bifurcated structure, which is authorized by the Act. Central will serve master sub-servicer, and will notify the Central Contractors of the CEU Securitization Charge, which will be adjusted from time to time by the Electrical Utility based upon the Adjustment Mechanism and the usage information provided by the Central Contractors. The Central Contractors, in turn, will bill and collect the charge from the CEU Customer bills using their normal collection procedures. The Servicer and sub-servicers must account for and remit the

applicable securitization charges to or for the account of the SPE or its assigns or pledgees in accordance with the remittance procedures contained in the Servicing Documents, without any charge, deduction or surcharge of any kind (other than the servicing fee specified in the Servicing Document).

34. Further, pursuant to the Servicing Documents, the Central Contractors, so long as they contract with Central, will be permitted to remit the Securitization Charges as part of their normal monthly payment to Central. Central, in turn, will allocate the first revenues received from the Central Contractors to the CEU Securitization Charge, and remit the CEU Securitization Charges to the bond trustee within two business days of receipt from the Central Contractors. In the event that the Central Contractor is no longer a customer of Central, the Central Contractor will be required to remit the Securitization Charges directly to the Servicer in accordance with the Subservicing Agreement.
35. If the Servicer defaults on its obligations under the servicing agreement, the indenture trustee may appoint a replacement servicer subject to the terms of and the indenture. If any of the sub-servicers default under their sub-servicing agreements, the Servicer, or upon petition of the Servicer or the SPE, this Commission is entitled take action to enforce the provisions of the subservicing arrangements Section 58-31-840(C)(1) of the Code.
36. The rights of the SPE under the Servicing Documents will be included in the collateral pledged by the SPE to the indenture trustee under the indenture for the benefit of holders of the Securitization Bonds.
37. The Servicer and sub-servicers will be entitled to annual servicing fees, and to the recovery of fees and expenses, as set forth in Appendix C and as provided in the Servicing Documents. The Commission approves the servicing fees and servicing arrangements as described in the Servicing Documents. The Commission also approves, (a) in the event of a default by the initial Servicer resulting in the appointment of a successor servicer, a higher annual servicing fee of up to [0.60%] of the initial principal balance of the securitization bonds unless the Electrical Utility can reasonably demonstrate to the Commission that the services

cannot be obtained at that compensation level under the market conditions at that time, and (b) in the event of a default by Central or a Central Contractor, such additional compensation as determined necessary by the Servicer to pay for alternative servicing arrangements consistent with the requirements of the Basic Transaction Documents.

38. In addition to the servicing fee, the Electrical Utility will be entitled to an annual administration fee fixed for providing administrative and support services to the SPE. The Commission approves the fixed annual administration fee as described herein.
39. The obligations to continue to provide service and to collect and account for CEU Securitization Charges will be binding upon the Electrical Utility, and upon Central and the Central Contractors, or any other Intermediary, including any other entity (as a successor to Central or a Central Contractor) that provides transmission or distribution electric services, directly or indirectly, to a CEU Customer.
40. If any Central Contractor sells, assigns or otherwise divests any of its transmission or distribution system or any facilities providing service to CEU Customers, by any method whatsoever, including those specified in Ordering Paragraph 38 pursuant to which an entity becomes a successor, such entity acquiring such system or portion thereof shall agree to continue operating the facilities to provide service to CEU Customers and to assume any subservicing contract obligations to Central and the Electrical Utility.
41. The Commission, through the Office of Regulatory Staff or otherwise, will enforce the obligations imposed by this financing order and the Servicing Documents upon the Electrical Utility and all such Intermediaries, including Central and the Central Contractors, to ensure the timely and full repayment of the CEU Securitization Bonds and other Ongoing Securitization Costs, as required by Section 58-31-840(C)(1) of the Code.

42. The Servicing Documents and servicing arrangements described in Findings of Fact 32 through 41 are reasonable, consistent with the Act and Petitioner's proposed financing order and should be approved.

6. Securitization Bonds

43. The CEU Securitization Bonds (i) will have a final maturity no later than XX, XXX, with a scheduled final maturity no later than XX, XX (each final maturity being no later than two years following the scheduled maturity date), (ii) will be amortized to provide for substantially level debt service requirements each year over the life of the Securitization Bonds, and (iii) will bear interest at the rate or rates determined at the time of pricing and set forth in the Issuance Advice Letter. The Electrical Utility estimates in its Petition that the average interest rate on the Securitization Bonds would be approximately [X%] based upon current market conditions. The Electrical Utility has requested that the final terms of the bonds, including payment dates, redemption provisions and other details, will be determined on or about the date of issuance, and has requested flexibility in establishing such final terms. The Electrical Utility has also requested flexibility to sell and offer the bonds at such prices and in in such manner, whether a SEC registered sale or Rule 144 offering, as it deems appropriate.
44. The Commission finds that the proposed bond terms are consistent with the Act and the Petitioner's proposed financing order, and should be approved, and the Electrical Utility should be afforded the flexibility to determine final terms and structure of the Securitization Bonds, consistent with this financing order, including the manner of offer and sale of the bonds which will be set forth in the Issuance Advice Letter.

7. Security for Securitization Bonds

45. The payment of the Securitization Bonds and Ongoing Securitization Costs authorized by this financing order are to be secured by the CEU Securitization Property created by this financing order and by certain other collateral as described in the Petition. The Securitization Bonds will be issued pursuant to the indenture administered by the indenture trustee. The Indenture will include

provisions for a collection account and subaccounts for the collection and administration of the securitization charges and payment or funding of the principal and interest on the securitization bonds and other costs, including fees and expenses, in connection with the securitization bonds. Pursuant to the Indenture, the SPE will establish a collection account as a trust account to be held by the indenture trustee as collateral to ensure the payment of the principal, interest, and other costs approved in this financing order related to the Securitization Bonds in full and on a timely basis. The collection account will include the general subaccount, the capital subaccount, and the excess funds subaccount, and may include other subaccounts. The indenture trustee will deposit the securitization charge remittances that the servicer remits to the indenture trustee for the account of the SPE into one or more segregated trust accounts and allocate the amount of those remittances to the general subaccount. The indenture trustee will on a periodic basis apply money in this subaccount to pay expenses of the SPE, to pay principal and interest on the Securitization Bonds, and to meet the funding requirements of the other subaccounts. The funds in the general subaccount will be invested by the indenture trustee as provided in the indenture, and such funds (including, to the extent necessary, investment earnings) will be applied by the indenture trustee to pay principal and interest on the Securitization Bonds and all other components of the Periodic Payment Requirement (“PPR”) (as defined in Finding of Fact 57), and otherwise in accordance with the terms of the Indenture.

46. When the Securitization Bonds are issued, the Electrical Utility will make a capital investment to the SPE, which the SPE will deposit into the capital subaccount. The amount of the capital investment will be determined by the Electrical Utility in accordance with legal and tax advice. The capital subaccount will serve as collateral to ensure timely payment of principal and interest on the securitization bonds and all other components of the PPR. The funds in this subaccount will be invested by the indenture trustee as provided in the indenture. Any amounts in the capital subaccount will be available to be used by the indenture trustee to pay principal and interest on the securitization bonds and all

other components of the PPR if necessary due to a shortfall in securitization charge collections. Any funds drawn from the capital account to pay these amounts due to a shortfall in the securitization charge collections will be replenished securitization charge remittances.

47. The capital investment to the SPE will be funded by the Electrical Utility. Proceeds from the sale of the Securitization Bonds will not be used to offset the amount of the capital contribution. Furthermore, the Commission finds that the Electrical Utility may earn a rate of return on its capital investment in the SPE equal to the rate of interest payable on the longest maturing tranche of the Securitization Bonds, to be paid from securitization charge revenues.
48. The excess funds subaccount will hold any securitization charge remittances and investment earnings on the collection account in excess of the amounts needed to pay current principal and interest on the Securitization Bonds and to pay other PPRs (including, but not limited to, replenishing the capital subaccount). Any balance in or allocated to the excess funds subaccount on a true-up adjustment date will be subtracted from the Periodic Billing Requirement (“PBR”) (as defined in Finding of Fact 58) for purposes of the true-up adjustment. The money in this subaccount will be invested by the indenture trustee as provided in the indenture, and such money (including investment earnings thereon) will be used by the indenture trustee to pay principal and interest on the securitization bonds and other PPRs.
49. Other Credit Enhancements, including reserve or over-collateralization subaccounts may be utilized for the transaction if such enhancements provide benefits greater than their costs, as determined by the Electrical Utility and described in the Issuance Advice Letter.

8. General Provisions

50. The collection account and the subaccounts described above are intended to provide for full and timely payment of scheduled principal and interest on the securitization bonds and all other components of the PPR. If the amount of securitization charges remitted to the general subaccount is insufficient to make

all scheduled payments of principal and interest on the securitization bonds and to make payment on all of the other components of the PPR, the capital subaccount will be drawn down to make those payments. Any reduction or deficiency in the capital subaccount due to such withdrawals must be replenished to the capital subaccount on a periodic basis through the true-up process. In addition to the foregoing, there may be such additional accounts and subaccounts as are necessary to segregate amounts received from various sources, or to be used for specified purposes, including accounts established pursuant to any sub-servicing arrangements. Such accounts will be administered and utilized as set forth in the Servicing Contracts and the Indenture. Upon the payment of all Securitization Bonds and the discharge of all obligations, including all financing costs in respect thereof, remaining amounts in the collection account, other than amounts that were in the capital subaccount, will be released to the SPE and equivalent amounts will be credited by the Electrical Utility or an Intermediary to CEU customers consistent with Ordering Paragraph 25.

51. The use of a collection account and its subaccounts in the manner proposed by the Electrical Utility is reasonable, and consistent with the Act and the Petitioner's proposed financing order, and should be approved.

9. Securitization Charges—Imposition and Collection and Non-bypassability

52. CUE Securitization Charges will be imposed on and collected from CEU electric customers in an amount sufficient to provide for the full and timely payment of principal and interest on the Securitization Bonds and the payment or recovery of all Ongoing Financing Costs. The CEU Securitization Charges shall be in addition to the other rates of the Electrical Utility or Intermediary collecting such charge. The securitization charges imposed by this financing order are irrevocable, binding and non-bypassable charges (to the extent provided in the Act and this financing order).
53. Each Central Contractor will include in its customer bills, at least semi-annually, through an insert or otherwise, a statement to the effect the SPE is the owner of

the rights to the CEU Securitization Charges collected as part of its billing process, and the Central Contractors is a collection agent or servicer for the SPE.

54. If any CEU Customer does not pay the full amount of any bill, the Central Contractor or other Intermediary will allocate all Customer revenue pro-rata between the securitization charge and the remaining Customer charges as required by Section 58-31-840(D)(1) of the Code. However, as authorized by such section of the Code and as requested in the Petition, Central is permitted to apply all revenue received from its wholesale and retail electrical customers first to the payment of securitization charges due and owing and then to other wholesale or retail customer charges. If this procedure results in temporary advances being made to the SPE by Central, Central will be permitted to recover a return on such advances as set forth in the Servicing Contracts.
55. The Act requires that the Securitization Charges be “non-bypassable”, meaning that the charge cannot be avoided by CEU Customers. The Non-bypassable charge must be paid by the Customer, regardless of whether the Customer purchases its electricity from an alternative electricity provider and regardless of who generates that electricity. CEU Customers who self-generate their electricity must pay the Securitization Charges to the extent that such energy, or any supplemental energy or emergency back-up power, is transmitted through use of an Electrical Utility’s or Intermediary’s delivery system. Pursuant to the Act and other legal authority, the Commission herein provides that, in the event that there is a fundamental change in the manner of regulation of public utilities, which allows third parties other than the servicer or an Intermediary to bill and collect securitization charges, the securitization charge shall be billed, collected and remitted to the Servicer or an Intermediary in a manner that will not cause any of the then current credit ratings of the Securitization Bonds to be suspended, withdrawn or downgraded.
56. The Commission finds that such non-bypassability provisions described in Findings of Fact 52 through 55 are consistent the Act and Petitioner’s proposed financing order, and should be approved.

10. Periodic Payment Requirements; Allocation of Payment Responsibility

57. The PPR is the required periodic payment for a given period under the securitization bonds. As to be more fully specified in the Basic Financing Documents, each PPR includes: (a) the principal amortization of the Securitization Bonds in accordance with the expected amortization schedule (including deficiencies of previously-scheduled principal for any reason); (b) periodic interest on the Securitization Bonds (including any accrued and unpaid interest); and (c) all Ongoing Securitization Costs. The initial PPR for the Securitization Bonds issued pursuant to this financing order will be updated in the Issuance Advice Letter.
58. The PBR represents the aggregate dollar amount of securitization charges that must be billed during a given period so that the securitization charge collections will be sufficient to meet the PPR for that period based upon: (i) forecast usage data for the period; (ii) forecast uncollectibles for the period; (iii) forecast lags in collection of billed securitization charges for the period; and (iv) projected collections of securitization charges pending the implementation of the true-up adjustment. The forecasted data will be required to be provided by the Central Contractors and Central to the Electrical Utility, as Servicer, pursuant to the Servicing Documents.
59. The Electrical Utility will allocate the PPR and PBR among the CEU Customers of each of the Central Contractors as described in Appendix B This methodology is consistent with the Act and with the Petitioner's draft financing order and should be approved.

11. Calculation and True-Up of Securitization Charges

60. Consistent with Section 58-31-710(4) of the Code, the Servicer will make, or cause to be made, mandatory semi-annual adjustments (*i.e.*, every six months, except for the first true-up adjustment period, which may be longer or shorter than six months, but in any event no more than nine months) to the securitization charges to:

- (a) correct any under-collections or over-collections (both actual and projected), for any reason, during the period preceding the next true-up adjustment date; and
 - (b) to ensure the projected recovery of amounts sufficient to provide timely payment of the scheduled principal of and interest on the Securitization Bonds and all other Ongoing Securitization Costs (including any necessary replenishment of the capital subaccount) during the subsequent 12-month period (or in the case of quarterly true-up adjustments described below, the period ending the next bond payment date).
61. In addition, (i) to the extent any Securitization Bonds remain outstanding after the scheduled maturity date of the last bond tranche or class, the Servicer shall make mandatory true-up adjustments quarterly until all Securitization Bonds and Ongoing Securitization Costs are paid in full; and (ii) the Servicer will have the right to make interim true-up adjustments more frequently at any time during the term of the Securitization Bonds: (A) if the Servicer forecasts that securitization charge collections will be insufficient to make on a timely basis all scheduled payments of principal and interest on the Securitization Bonds and other Ongoing Securitization Costs during the current or next succeeding payment period and/or (ii) to replenish any draws upon the capital subaccount or on any reserve or over-collateralization account.
62. Consistent with Section 58-31-710(4) of the Code, the Servicer, on behalf of the SPE, shall file with the Commission and the Office of Regulatory Staff at least semi-annually, a true-up notice in the form of Appendix D to this financing order. The review of such a true-up notice shall be administrative and limited only to determining whether there is any mathematical error in the application of the Adjustment Mechanism. The Office of Regulatory Staff shall review and make recommendations to the Commission regarding the true-up notice filed within thirty (30) days of receipt. Any such adjustments shall ensure the recovery of revenues sufficient to provide for the payment of the Securitization Bonds and all Ongoing Securitization Costs. Within forty-five (45) days after receiving a true-

up notice, this Commission shall either approve the request or inform the Electrical Utility (or any servicer on its or their behalf) of any mathematical errors in its calculation. If the Commission informs the Servicer of mathematical errors in its calculation, the Servicer may correct its error and refile its request to correct the mathematical error so long as the adjustment goes into effect no later than sixty days following the initial filing. If the corrected adjustment does not go into effect as of such sixtieth day, the original true up adjustment will go into effect and any adjustment to correct for the mathematical error shall be made in the next true-up filing. No error by Servicer shall affect the validity of any true-up adjustment.

63. True-up filings will be based upon the cumulative differences, regardless of the reason, between the PPR (including scheduled principal and interest payments on the Securitization Bonds and Ongoing Securitization Costs) and the amount of securitization charge remittances to the indenture trustee. True-up procedures are necessary to ensure full recovery of amounts sufficient to meet on a timely basis the PPR over the scheduled life of the Securitization Bonds. In order to assure adequate securitization charge revenues to fund the PPR and to avoid large over-collections and under-collections over time, the Servicer will use its best efforts to reconcile the securitization charges using the most recent forecast of usage, demand and base rate revenues and estimates of financing costs made available to the Electrical Utility by the Central Contractors and/or Central. The calculation of the securitization charges will also reflect both a projection of uncollectible securitization charges and a projection of payment lags between the billing and collection of securitization charges based upon the most recent experience regarding collection of securitization charges which is made available the Electrical Utility by the Central Contractors and/or Central. No failure on the part of the Electrical Utility, the Servicer or other servicer to use the most recent forecast of usage, demand, base rate revenues, payment lags or delinquency data or projections from the Central Contractors (or Central) shall affect the validity of any true-up adjustment.

64. The methodology proposed to calculate and adjust the securitization charges from time to time described in Appendix B and in Findings of Fact 60 through 63 is consistent with the Act and with Petitioner's proposed financing order, and should be approved.
65. The Servicer will calculate and include the initial securitization charge in the Issuance Advice Letter.

D. Use of Proceeds

66. Upon the issuance of securitization bonds, the SPE will use the net proceeds from the sale of the Securitization Bonds (after payment of Upfront Securitization Costs payable by the SPE) to pay to the Electrical Utility the purchase price of the Electrical Utility's rights under this financing order (except the Electrical Utility Retained Rights), which are CEU Securitization Property.
67. The Electrical Utility will use the proceeds to recover, finance or re-finance the cost of Securitization Activities.

IV. CONCLUSIONS OF LAW

A. Jurisdiction

1. The Electrical Utility is an electrical utility as defined in Section 58-31-710(23) of the Code.
2. Central is an electric cooperative formed under Sections 33-49-10 et seq. of the Code.
3. The Central Contractors are each electric cooperatives formed under Sections 33-49-10 et seq. of the Code.
4. The Electrical Utility is entitled to file, and the Petition constitutes, a petition for a CEU financing order pursuant to Section 58-31-840(A) of the Code.
5. The Commission has jurisdiction and authority over the Petition, and the authority to approve this financing order pursuant to the Constitution of the State of South Carolina, and Section 56-31-840 of the Code.
6. Notwithstanding any other provision of law exempting any Person from Commission jurisdiction or oversight (including without limitation Sections 33-49-50 and 58-27-1010 of the Code), Central and any other Person (including any Central Contractor) that is not subject to such jurisdiction or oversight that will be an Intermediary, are subject to the limited jurisdiction of the Commission solely for its consideration, adoption, oversight, and enforcement of this financing order, including but not limited to the imposition and collection of Securitization Charges and use of Securitization Charges, as authorized by Section 58-31-840 of the Code and by this financing order.
7. The Electrical Utility, an Assignee, a Financing Party or other interested party, including the Office of Regulatory Staff may bring an action in State Circuit Court to enforce this financing order or any servicing, sub-servicing, or collection agent agreement, and the Commission may take, and shall take any action that it is obligated to take, under this financing order, as well as any action to enforce this financing orders that it is authorized to take to enforce any of its orders against entities subject to the general jurisdiction of the Commission.

B. Statutory Requirements

8. The Petition was property filed in compliance with Section 58-31-840(A) of the Code.
9. Central and the Central Contractors were property joined as parties to this proceeding.
10. Each of the Central Contractors duly appointed Central as their attorney-in-fact for this proceeding.
11. This financing order meets the requirements for a financing order under the Act.
12. Pursuant to Section 58-31-840(B)(8), this financing order will remain in full force and effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, or merger or sale of the Electrical Utility, Central or any Intermediary, or their respective successors, or assignees.

C. Securitization Costs and Financing Costs

13. The costs authorized for recovery under this financing order, including without limitation, Upfront Securitization Costs and Ongoing Financing Costs, are securitization costs under the Act and are eligible for recovery.
14. The SPE will be an assignee as defined by Section 58-31-710(6) of the Code when securitization property is transferred to the SPE pursuant to Section 58-31-840(E)(3) of the Code.
15. The SPE, the holders of Securitization Bonds, the indenture trustee, and any collateral agent will each be a “financing party” as defined in Section 58-31-710(27) of the Code.

D. Sale of Securitization Property

16. The transfer of the securitization property to the SPE by the Electrical Utility complies with Section 58-31-840(E)(1)(c) of the Code
17. If and when the Electrical Utility transfers its rights under this financing order (other than the Retained Rights) to the SPE under an agreement that expressly states that the transfer is a sale or other absolute transfer in accordance with the true-sale provisions of Section 58-31-840(E)(3) of the Code, then, pursuant to that statutory provision, that transfer shall be a true sale of an interest in securitization property and not a security

interest in the transferor's right, title, and interest in, to, and under the securitization property. As provided by Section 58-31-840(E)(3) of the Code, this true sale shall apply regardless of whether, and without limitation, the purchaser has any recourse against the seller, or any other term of the parties' agreement, including the seller's retention of a partial or residual interest in the securitization property, the Electrical Utility's role as the collector of securitization charges relating to the securitization property, or the treatment of the transfer as a financing for tax, financial reporting, or other purposes.

18. As provided in Section 58-31-840(E)(3)(e) of the Code, the priority of a sale of securitization property under the Act is not impaired by any later modification of the financing order or securitization property or by the commingling of funds arising from securitization property with other funds. Further, securitization property that has been transferred to an assignee or financing party, and any proceeds of that property, will be held for and delivered to the assignee or financing party by the Electrical Utility or any other servicer or Intermediary as a fiduciary.

E. Securitization Bonds

19. The SPE may issue bonds in accordance with this financing order.
20. The securitization bonds issued pursuant to this Financing order will be "securitization bonds" within the meaning of Section 58-31-710(48) of the Code, and the securitization bonds and holders thereof will be entitled to all of the protections provided under the Act.
21. As provided in Section 58-31-840(E)(1)(d) of the Code, if the Electrical Utility and Intermediary or service defaults on any required payment of charges arising from securitization property specified in a financing order, a court, upon application by an Assignee or financing party, or upon application of this Commission, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the securitization property to the financing parties or their representatives. Any such order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the Electrical Utility or an Intermediary or other servicer, or their respective successors or assignees.

22. As provided in Section 58-31-840(K), securitization bonds are not a debt or a general obligation of the state or any of its political subdivisions, agencies, or instrumentalities. An issue of securitization bonds does not, directly or indirectly or contingently, obligate the state or any agency, political subdivision, or instrumentality of the state to levy any tax or make any appropriation for payment of the bonds, other than for paying securitization charges in their capacity as CEU customers.
23. As provided in Section 58-31-840(D)(4), the securitization bonds are not a debt or a liability of any Intermediary.

F. Securitization Property

24. The securitization property created by this financing order is “securitization property” within the meaning of Section 58-31-710(52) of the Code. As provided in Section 58-31-710(52)(E)(1) of the Code, the securitization property created by this Financing Order shall constitute an existing, present contract property right, notwithstanding that the value of the property and the imposition and collection of securitization charges depends on future acts such as the Electrical Utility, Central, the Central Contractors or any other Intermediary performing its servicing functions relating to the collection of securitization charges and on future electricity consumption. Such property shall exist whether or not the revenues or proceeds arising from the property have been billed, have accrued, or have been collected and notwithstanding the fact that the value or amount of the property is or may be dependent on the future provision of service to CEU customers.
25. As provided in Section 58-31-840(F) of the Code, the description of this securitization property in any contract is only sufficient if such description refers to this financing order and such contract states that it covers all or part of the securitization property described in this financing order.
26. The rights and interests of the Electrical Utility or its successor, transferred to the SPE in the Securitization Property Sale Agreement and the related Bill of Sale, including the right to impose, bill, and collect securitization charges is securitization property.
27. As provided in Section 58-31-840(E)(1)(e) of the Code, the interest of an Assignee or secured party in securitization property is not subject to setoff, counterclaim, surcharge,

or defense by the Electrical Utility or any other person or in connection with the reorganization, bankruptcy or other insolvency of the Electrical Utility, Central, any Intermediary, any CEU Customer, or any other entity.

G. Securitization Charges

28. Amounts that are required to be paid to the servicer or any Intermediary as securitization charges under this financing order are “securitization charges” as defined in Section 58-31-710(50) of the Code, whether or not such charges are set out as a separate line item on the customer’s bill. When customers pay the securitization charges, they are paying for the use of electric service. The securitization charges under this financing order are irrevocable, binding and non-bypassable charges.
29. Any payment of securitization charges by a customer to the Electrical Utility, Central, or any Intermediary, or to another entity responsible for collecting securitization charges from customers under this financing order will discharge the CEU customer’s obligations in respect of that payment.
30. Pursuant to Section 58-31-840(D)(1) of the Code, in the event of a CEU Customer partial payment and with regard to that Customer’s account, the Intermediary shall allocate all Customer revenue pro-rata between the Securitization Charge and the remaining Customer charges owed to the Intermediary; provided nothing in this financing order shall prevent Central from agreeing to apply all revenue received from its wholesale and retail electrical customers first to the payment of Securitization Charges due and owing and then to other wholesale or retail customer charges.
31. The Electrical Utility, as servicer, and each Intermediary will collect the securitization charges associated with the securitization property only for the benefit of the holders of the Securitization Bonds in accordance with the Servicing Documents.

H. Security Interest in Securitization Property; Statutory Lien

32. Pursuant to Section 58-31-840(E)(2) of the Code, the securitization property may be encumbered by a security interest to secure securitization bonds issued pursuant to this financing order.

33. As provided in Section 58-31-840(E)(2)(c) of the Code, a valid and enforceable security interest in favor of the bondholders or a trustee on their behalf attaches after: (1) this financing order is issued, (2) a security agreement with a financing party in connection with the issuance of securitization bonds is executed and delivered, and (3) value for the securitization bonds is received.
34. As provided in Section 58-31-840(E)(2)(d) of the Code, a security interest in securitization property is perfected only if it has attached and a financing statement indicating the securitization property collateral covered thereby has been filed in accordance with the South Carolina Uniform Commercial Code. The filing of such a financing statement shall be the only method of perfecting a lien or security interest on securitization property.
35. Under Section 58-31-840(E)(2)(e) of the Code, the priority of a security interest perfected under the Act is not defeated or impaired by any later modification of the financing order or securitization property or by the commingling of funds arising from securitization property with other funds.
36. Pursuant to Section 58-31-840(H) of the Code, there shall exist a statutory lien on the Securitization Property. Upon the effective date of this financing order (or if later, the date of issuance of the Securitization Bonds), there shall exist a first priority statutory lien on all securitization property, then existing or, thereafter arising, to secure the payment of the Securitization Bonds. This lien shall arise pursuant to law automatically without any action on the part of the Commission, an Electrical Utility, any Intermediary or other Financing Party. This lien shall secure the payment of all Securitization Costs, including all Ongoing Securitization Costs, then existing or subsequently arising, to the holders of the Securitization Bonds, the trustee or representative for the holders of the Securitization Bonds, and any other entity specified in the financing order or the documents relating to the Securitization Bonds. This lien shall attach to the Securitization Property regardless of who shall own, or shall subsequently be determined to own, the Securitization Property. This lien shall be valid and enforceable against the owner of the Securitization Property and all third parties upon effectiveness of this financing order without any further public notice. The statutory lien is a continuously

perfected lien on all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Securitization Property shall constitute property for all purposes, including for contracts securing Securitization Bonds, whether or not the revenue or proceeds arising with respect thereto have accrued.

I. True-Up of Securitization Charges

37. The methodology approved in this financing order to allocate the Securitization Costs satisfies the Act.
38. The true-up procedures described in this financing order to calculate and adjust the securitization charge, including the forms of True-Up Notices attached as Appendix D, are an Adjustment Mechanism consistent with the Act.
39. The true-up mechanism, and all other obligations of the State of South Carolina and the Commission set forth in this financing order, are direct, explicit, irrevocable and unconditional upon issuance of the Securitization Bonds and are legally enforceable against the State of South Carolina and the Commission.

J. Irrevocability and State and Commission Pledges

40. Pursuant to Section 58-31-840(e) of the Code, the State pledges to and agrees with Securitization Bondholders, the owners of the Securitization Property, other Financing Parties, the Electrical Utility and NextEra Energy, Inc. that the State will not:
 - (a) alter the provisions of Section 58-31-840 that make the Securitization Charges imposed by this financing order irrevocable, binding and Non-bypassable charges;
 - (b) take or permit any action that impairs or would impair the value of securitization property; or
 - (c) except as allowed under Section 58-31-840, reduce, alter, or impair Securitization Charges that are to be imposed, collected and remitted for the benefit of the Securitization Bondholders and other Financing Parties until any and all Securitization Bonds and Ongoing Securitization Costs,

including, any contracts to be performed, in connection with the Securitization Bonds, have been paid and performed in full.

[This] pledge ... confers a property right on each Electrical Utility, any Intermediary, the Assignee, any Financing Party, and the holders of Securitization Bonds.

Nothing in sub-section (J)(1) of Section 58-31-840 of the Code shall preclude limitation or alteration if adequate provisions are made by law for the protection of the Securitization Charges collected pursuant to this financing order and of the holders of Securitization Bonds and the Assignee or any Financing Party entering into a contract with an Electrical Utility.

41. Any Assignee, including the SPE, may include the foregoing pledge specified in the Securitization Bonds and related documentation.
42. Pursuant to Section 58-31-840 (A)(4), this financing order is irrevocable and, except in connection with a refunding or refinancing as provided in sub-section (B)(4) and to implement any true-up adjustment as provided in sub-section (B)(8) of Section 58-31-840, the Commission may not amend, modify or terminate this financing order by any subsequent action or reduce, impair, postpone, terminate or otherwise adjust Securitization Charges approved in the financing order; provided that nothing shall preclude limitation or alteration if and when full compensation is made for the full protection of the securitization charges collected pursuant to this financing order and the full protection of the Securitization Bondholders and any Assignee or Financing Party.
43. .Upon issuance of this financing order, the SPE has the continuing irrevocable right to cause the issuance of Securitization Bonds, at the request of the Electrical Utility, in accordance with this financing order.
44. All regulatory approvals within the jurisdiction of the Commission that are necessary for transactions contemplated in the financing order, have been granted.

V. ORDERING PARAGRAPHS

Based upon the record, the Findings of Fact and Conclusions of Law set forth herein, and for the reasons stated above, this Commission orders:

A. Approval

1. **Approval of Securitization Petition.** The Petition for the issuance of a financing order under the Act is approved.
2. **Authority to Finance and Issue Securitization Bonds.** The Electrical Utility is authorized to securitize and to cause the issuance of Securitization Bonds with an aggregate principal amount equal to the sum of the sum of: (a) \$xxx million of Securitization Costs to fund the payment of Securitization Activities, plus (b) the actual amount of Upfront Securitization Costs, which are estimated to be \$xx million, plus (c) the cost of any Credit Enhancements and other mechanisms designed to promote the credit quality and marketability of the securitization bonds which are described in the Issuance Advice Letter.
3. **Authority to Adjust for and Recover Upfront Securitization Costs.** The Electrical Utility may adjust for the amount of actual Upfront Securitization Costs by filing with the Commission, within 90 days of the issuance of the Securitization Bonds, a final accounting of its Upfront Securitization Costs as described in Finding of Fact 17.
4. **Recovery of Securitization Charges.** The Electrical Utility shall impose and collect, or cause to be imposed and collected, and the Intermediaries will cause to be imposed and collected, the securitization charges on all CEU Customers, even if the customer elects to purchase electricity from an alternative supplier including as a result of a fundamental change in the manner of regulation of public utilities in South Carolina. In the event that there is a fundamental change in the manner of regulation of public utilities, and parties other than the servicer are authorized to bill and collect the securitization charges, the securitization charges shall be billed, collected and remitted to the servicer or an Intermediary in a manner that will not cause any of the then current credit ratings of the securitization bonds to be suspended, withdrawn or downgraded.

5. **Recovery Period for Securitization Charges.** The securitization charges shall become effective on the date specified in the Issuance Advice Letter and thereafter shall be imposed and collected until the Securitization Bonds and all Ongoing Securitization Costs have been paid in full (which period of imposition and collection if necessary may extend beyond the legal final maturity dates of the Securitization Bonds).
6. **Issuance Advice Letter.** Following the determination of the final terms and structure of the Securitization Bonds, the Electrical Utility will file with the Commission Clerk, at least two business days prior to the issuance of the Securitization Bonds, an Issuance Advice Letter in substantially the form attached as Appendix A to this financing order. The Issuance Advice Letter will be an informational filing only and will include the estimated Upfront Securitization Costs, the estimated Ongoing Securitization Costs for the first year following issuance, a calculation of the initial securitization charge and its effective date, as well as a description of the final terms of the bonds, including principal amount, interest rates, redemption provisions and other details, including Credit Enhancements used in connection with the bonds. Upon filing of the Issuance Advice Letter with the Commission Clerk, the Electrical Utility is irrevocably authorized to proceed with the issuance of the Securitization Bonds. The Commission Clerk will provide acknowledgement of receipt of the Issuance Advice Letter at the request of the Electrical Utility.
7. **Approval of Initial Securitization Charges.** The initial securitization charges, as set forth in the Issuance Advice Letter, shall be billed beginning on the first day of the billing cycle of each Central Contractor following the date of issuance of the Securitization Bonds, as set forth in the Issuance Advice Letter.
8. **Creation of Securitization Property.** Securitization Property will arise and be created in the Electrical Utility simultaneous with the sale or other transfer of the securitization property to the Assignee and the pledge of the securitization property to secure Securitization Bonds. The securitization property includes, without limitation, the irrevocable right to impose, bill, charge, collect, and receive the securitization charges authorized by this financing order and to obtain periodic adjustments to such charges as provided in this financing order, but excludes the Electrical Utility Retained Rights.

B. Securitization Charges

9. **Imposition and Collection.** The Electrical Utility is authorized to impose on, and the Servicer and Intermediaries are authorized and require to collect from, all CEU Customers securitization charges in an amount sufficient at all times to provide for the recovery of the aggregate Periodic Payment Requirements (including payment of scheduled principal and interest on the Securitization Bonds), as approved in this financing order. The initial Securitization Charge shall be as set forth in the Issuance Advice Letter. Thereafter, the amount of such securitization charges shall be periodically corrected or “trued-up,” as required or permitted by this financing order. The securitization charges shall be imposed and collected until all Securitization Bonds and all Ongoing Securitization Costs have been paid in full.
10. **Calculation and Adjustment of Securitization Charge.** The securitization charge shall be calculated and adjusted semi-annually, quarterly and more frequently as described in this financing order, on each adjustment date using the methodology as detailed in Appendix B and in Findings of Facts 60 through 65. True-up letter notice filings shall be made substantially in the form of Appendix D hereto. The Commission covenants and agrees that it will act to ensure that the Adjustment Mechanism is used in order to ensure the projected recovery of amounts sufficient to provide timely payment of the Securitization Bonds and all Ongoing Securitization Costs. No error by the Servicer, or any Intermediary, or the failure of any party to receive notice of such true-up (other than the [Clerk] of the Commission), shall affect the validity of any true-up adjustment.
11. **Bondholder’s Rights and Remedies.** Upon the transfer by the Electrical Utility of the securitization property to the SPE and the SPE’s pledge of such property to the indenture trustee, the bondholders shall have as collateral all of the rights of the Electrical Utility with respect to such securitization property pledged under such documents, including, without limitation, the right to exercise any and all rights and remedies with respect thereto, including the right, subject to the terms of the Servicing Documents, to assess and collect any amounts payable by any customer in respect of the securitization property.

12. **Non-bypassability.** The Electrical Utility and any other Intermediary or other entity providing electric transmission or distribution services to CEU Customers are required to collect and must remit, consistent with this financing order, the securitization charges from all such Customers, regardless of whether the Customer purchases its electricity from an alternative electricity provider and regardless of who generates that electricity. CEU Customers who self-generate their electricity must pay the Securitization Charges to the extent that such energy, or supplemental energy or emergency back-up power, is transmitted through use of an Electrical Utility's or Intermediary's transmission or delivery system, all as described in Findings of Fact 52 through 56.
13. **Remittances.** The securitization charges shall be remitted by to the indenture trustee as described in this financing order.
14. **Partial Payments.** If any customer does not pay the full amount of any bill, the Central Contractor or other Intermediary will allocate all Customer revenue pro-rata between the Securitization Charge and the remaining Customer charges. Notwithstanding the foregoing, Central is authorized to apply all revenue received from its wholesale and retail electrical customers first to the payment of Securitization Charges due and owing and then to other wholesale or retail customer charges. If this procedure results in temporary advances being made to the SPE of Central revenue, Central is permitted to recover a return on such advances as set forth in the Servicing Contracts.
15. **No Setoff.** As provided in Section 58-31-840(E)(1)(e) of the Code, the interest of the SPE or another assignee or a secured party in securitization property shall not be subject to setoff, counterclaim, surcharge, or defense by the Electrical Utility, any Intermediary or any other person or in connection with the reorganization, bankruptcy or other insolvency of the Electrical Utility, Central, any Intermediary, or any other entity.
16. **Ownership Notification.** Each Central Contractor will insert in its customer bills, at least once a year, through an insert or otherwise, a statement to the effect the SPE is the owner of the rights to CEU securitization charges collected as part of its billing process, and the Central Contractors is a collection agent or servicer for the SPE. Any failure of the Electrical Utility or any Intermediary to comply with this paragraph shall not

invalidate, impair, or affect this financing order, or any securitization property, securitization charge, or securitization bonds.

C. Securitization Bonds

17. **Issuance.** The SPE is authorized to issue the Securitization Bonds as specified in this financing order.
18. **Sale of Securitization Property.** The Electrical Utility is authorized to transfer the securitization property to the SPE in accordance with Section 58-31-840(E)(1)(c) of the Code.
19. **Final Principal Amount; Terms of the Bonds.** The final principal amount of the securitization bonds shall be an amount set forth in the Issuance Advice Letter. The scheduled final maturity, legal final maturity, amortization, interest rates, redemption provisions (if any), Credit Enhancements (as authorized by Ordering Paragraph 28), and other details of the Bonds, as determined by the Electrical Utility in accordance with this financing order, shall also be described in the Issuance Advice Letter. The Electrical Utility is authorized to cause the bonds to be offered and sold in such manner, whether through a SEC-registered sale, Rule 144A offering or private sale, or otherwise, as it deems appropriate.
20. **Ongoing Financing Costs.** The actual Ongoing Financing Costs shall be recovered on a current basis through the securitization charges and the Adjustment Mechanism. The estimated Ongoing Financing Costs for the first year following issuance of the Securitization Bonds will be set forth in the Issuance Advice Letter.
21. **Transaction Structure.** The transaction structure as described in this financing order is approved. The forms of documents submitted with the Petition are approved for use in the transaction, subject to such changes as required in the sole discretion of the Electrical Utility to address rating, credit, marketing issues and the final terms of the bonds not inconsistent with this financing order.
22. **Not an Obligation of the State.** The Securitization Bonds must contain on their face pursuant to Section 58-31-840(K) the following statement: “Neither the full faith and

credit nor the taxing power of the State of South Carolina is pledged to the payment of the principal of, or interest on, this bond.”

23. **Refinancing.** The Electrical Utility may apply for a subsequent financing order to refund securitization bonds issued under this financing order pursuant to Section 58-31-840(B)(6) of the Code.
24. **Collateral.** All securitization property and other collateral shall be held in pledge and administered by the indenture trustee pursuant to the Indenture. The SPE shall establish a collection account with the indenture trustee as described in the Findings of Fact 50 and 51.
25. **Distribution Following Repayment.** Upon payment in full of Securitization Bonds and the discharge of all obligations in respect thereof, all amounts in the collection account, including investment earnings, shall be released by the indenture trustee to the SPE for distribution to as directed by this Commission. The Electrical Utility shall notify the Commission within 30 days after the date that these funds are eligible to be released of the amount of such funds available for crediting to the benefit of CEU Customers, and such amount shall be credited to the customers in the manner to be prescribed then by the Commission.
26. **Use and Capitalization of the SPE.** The Electrical Utility shall use the SPE, a special purpose securitization funding entity, in conjunction with the issuance of the Securitization Bonds. The SPE shall be formed and capitalized at a level determined by the Electrical Utility as described in Findings of Fact 19 and 20.
27. **Funding of Capital Subaccount; Return to Electrical Utility.** The capital investment by the Electrical Utility in the SPE to be deposited into the capital subaccount shall be funded by the Electrical Utility and not from the proceeds of the sale of securitization bonds. Upon payment of the principal amount of all securitization bonds and the discharge of all obligations in respect thereof, all amounts in the capital subaccount (including investment earnings thereon) shall be released to the SPE for payment to the Electrical Utility. The Electrical Utility may earn a rate of return on its capital investment in the SPE [equal to the rate of interest payable on the longest maturity

tranche of the securitization bonds,] to be paid from securitization charges as an Ongoing Securitization Cost.

28. **Credit Enhancement.** The Electrical Utility in its discretion may provide for various forms of Credit Enhancement including hedging arrangements, letters of credit, an overcollateralization subaccount or other reserve accounts, and surety bonds, and other mechanisms designed to promote the credit quality or marketability of the securitization bonds. The Credit Enhancement shall be described in the Issuance Advice Letter, and any costs, whether in the form of increased Upfront or Ongoing Securitization Costs, shall be recoverable from bond proceeds or securitization charges so long as the Electrical Utility states in the Issuance Advice Letter that it believe that the benefits of the Credit Enhancement are expected to outweigh the costs. The Electrical Utility shall be entitled to rely upon the advice of its financial advisor or investment banker in making such determination, which shall be irrefutable. This financing ordering Paragraph does not apply to the collection account or its subaccounts (other than the overcollateralization subaccount) approved in this financing order.

D. Servicing Arrangements

29. **Servicing Arrangements.** The Servicing arrangements described in Findings of Fact 33 through 43 are reasonable, consistent with the Act and are hereby approved.

E. Use of Proceeds

30. **Use of Proceeds.** The use of Bond proceeds as described in Finding of Fact 67 is consistent with the Act and the Asset Purchase Agreement and is hereby approved.

F. Commission Pledge

31. **Irrevocable.** After the earlier of the transfer of the securitization property to an assignee or issuance of the securitization bonds authorized by this financing order, this financing order is irrevocable until the indefeasible payment in full of such bonds and the related financing costs. The Commission covenants, pledges and agrees it thereafter shall not amend, modify, or terminate this financing order by any subsequent action, or reduce, impair, postpone, terminate, or otherwise adjust the securitization charges approved in

this financing order, or in any way reduce or impair the value of the securitization property created by this financing order, except as may be contemplated by a refinancing authorized under the Act or the periodic true-up adjustments authorized by this financing order, until the indefeasible payment in full of the Securitization Bonds and the Ongoing Securitization Costs. The Commission further pledges that it will enforce the obligations imposed by this financing order and the Servicing Documents upon the Electrical Utility and all such Intermediaries, including Central and the Central Contractors, to ensure the timely and full repayment of the Securitization Bonds and Ongoing Securitization Costs, as required by Section 58-31-840(C)(1) of the Code.

32. **Duration.** This financing order and the charges authorized hereby shall remain in effect until the Securitization Bonds and all Ongoing Securitization Costs have been indefeasibly paid or recovered in full. This financing order shall remain in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings of the Electrical Utility, or any Intermediary or their respective successors or assignees. Any successor to the Electrical Utility, or any successor to any Intermediary whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under this financing order as, the Electrical Utility or the Intermediary in the same manner and to the same extent as the Electrical Utility or the Intermediary, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the securitization property.
33. **Contract.** The Commission acknowledges that the securitization bonds approved by this financing order will be issued and purchased in express reliance upon this financing order and the Commission's covenant and pledge herein of irrevocability and the vested contract right created hereby. The provisions of this financing order shall create a contractual obligation of irrevocability by the Commission in favor of the owners from time to time of the Securitization Bonds, and any such bondholders may by suit or other proceedings enforce and compel the performance of this financing order against the Commission. It is expressly provided that such remedy as to individual [Commission

members] is strictly limited to a claim solely for prospective relief of declaratory and injunctive relief only; there shall be no other cause or right of action for damages or otherwise against the individual [Commission members]. The purchase of the bonds, which reference in their related documentation the covenant and pledge provided in this financing order, is acknowledged by the Commission to be adequate consideration by the owners of the bonds for the Commission's covenant of irrevocability contained in this financing order. The Commission acknowledges that it would be unreasonable, arbitrary and capricious for the Commission to take any action contrary to the covenant and pledge set forth in this financing order after the issuance of the securitization bonds. The Commission further acknowledges that any future actions it undertakes pursuant to the financing order are ministerial in nature.

34. **Full Compensation.** Nothing in this financing order shall preclude limitation or alteration of this financing order if and when full compensation is made for the full protection of the securitization charges approved pursuant to this financing order and the full protection of the holders of Securitization Bonds and any Assignee or Financing Party.
35. **Inclusion of Pledges.** The SPE, as issuer of the securitization bonds, is authorized, pursuant to Section 58-31-840(J) of the Act and this financing order to include the State of South Carolina pledge contained in Section 58-31-840(J) in the bonds and related bond documentation. The financing order is subject to the State pledge.

G. Miscellaneous Provisions

36. **Continuing Issuance Right.** The SPE has the continuing irrevocable right to cause the issuance of Securitization Bonds at the request of Electrical Utility in accordance with this financing order. There is no time limit to such authorization or right.
37. **Internal Revenue Service Private Letter or Other Rulings.** The Electrical Utility is not required by this financing order to obtain a ruling from the IRS. The Electrical Utility shall obtain an opinion of tax counsel to support its determination of the appropriate funding level for the SPE in accordance with Findings of Fact 19 and 20.

38. **Binding on Successors.** This financing order, together with the securitization charges authorized in it, shall be binding on the Electrical Utility any Intermediary, and any successor to the Electrical Utility or any Intermediary that provides electric transmission or distribution service, directly or indirectly, to CEU customers, including their respective successors. This financing order is also binding on any other entity responsible for billing and collecting securitization charges on behalf of the SPE and on any successor to the Commission. Any such successor shall perform and satisfy all obligations of, and have the same rights under this financing order as, the Electrical Utility, including collecting and paying to the person entitled to receive them the revenues, collections, payments, or proceeds of the securitization property created by this financing order. In this paragraph, a “successor” means any entity that succeeds by any means whatsoever to any interest or obligation of its predecessor or transferor, including by way of bankruptcy, reorganization or other insolvency proceeding, merger, acquisition, division, consolidation or other business combination, conversion, assignment, sale, transfer, lease, management contract, pledge or other security, by operation of law, as a result of electric utility restructuring or otherwise.
39. **Flexibility.** Pursuant to Section 58-31-840(B)(2)(h) of the Code, the Electrical Utility shall be afforded flexibility, consistent with this financing order, in establishing the final principal amount of the Securitization Bonds, the final terms and conditions of the Securitization Bonds, the final Upfront Securitization Costs, the use of Credit Enhancements and the manner by which the Securitization Bonds will be offered and sold, as described in Findings of Facts 12, 26, 27, 43 and 44 and elsewhere in this financing order.
40. **Statutory Lien; Sequestration.** In the event of default in payment of revenues arising with respect to the Securitization Property, the trustee, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the Securitization Property.
41. **Choice of Law.** The law governing the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the

pledge or creation of a security interest in any Securitization Property shall be the laws of the State, and exclusively, the provisions of Section 58-31-840.

42. **Regulatory Approvals.** All regulatory approvals within the jurisdiction of the Commission that are necessary for the transactions contemplated in the Securitization Application are granted.
43. **Effect.** This Financing order constitutes a legal financing order for the Electrical Utility under the Act. The Commission finds this financing order complies with the provisions of the Act. A financing order gives rise to rights, interests, obligations and duties as expressed in the Act. It is the Commission's express intent to give rise to those rights, interests, obligations and duties by issuing this financing order. The Electrical Utility is irrevocably authorized to take all actions as are required to effectuate the transactions approved in this financing order,. This financing order is effective upon issuance and acceptance of its terms by the Electrical Utility.
44. **Further Commission Action.** The Commission will act pursuant to this financing order as expressly authorized by the Act to ensure that expected securitization charge revenues are sufficient to pay at all times the scheduled principal of and interest on the Securitization Bonds issued pursuant to this financing order and all other Ongoing Securitization Costs in connection with the Securitization Bonds.
45. **All Other Motions, etc., Denied.** All motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief not expressly granted herein, are denied for want of merit.
46. **Limited Jurisdiction.** Pursuant to Section 51-38-840(C)(1), the Commission disclaims any jurisdiction over Central and the Central Contractors except for the purpose of consideration, adoption, oversight and enforcement of this financing order, as further provided in this financing order.

BY ORDER OF THE COMMISSION

Chairman

Vice Chairman
SEAL

DRAFT

Appendix A
Form of Issuance Advice Letter

FORM OF ISSUANCE ADVICE LETTER

_____ day, _____,

South Carolina Office of Regulatory Staff

[Address]

SUBJECT: ISSUANCE ADVICE LETTER FOR SECURITIZATION BONDS

Pursuant to the Financing Order adopted on the _____ day of _____, 2020 in Re: the financing of the sale of certain assets of South Carolina Public Service Authority to NextEra Energy, Inc. through the issuance of securitization bonds pursuant to act no. xx (CEU financing order) (the “**Financing Order**”), [Name of Electrical Utility] (“**Electrical Utility**”) hereby submits, not later than two business days prior to the issuance of the Securitization Bonds, the information referenced below. This Issuance Advice Letter is for the [name of SPE] Securitization Bonds, tranches _____. Any capitalized terms not defined in this letter shall have the meanings ascribed to them in the Financing Order or Act No. [the Act].

This filing will confirm to you the following:

- (1) the final principal amount of the bonds;
- (2) the terms, structure and pricing of the bonds;
- (3) confirmation that the terms of the bonds is consistent with the terms of the Financing Order;
- (4) a description of the manner of sale of the bonds;
- (5) a description of any Credit Enhancement used in connection with the issuance of the bonds;
- (6) an estimate of the Upfront Securitization Costs for the bonds;
- (7) an estimate of the Ongoing Securitization Costs for the bonds for the first year following issuance; and
- (8) the initial Securitization Charge.

Applicant hereby confirms to you're the following terms of the bonds:

Securitization Bond Series: _____

Securitization Bond Issuer (Assignee): **[name of SPE]**

Trustee:

Closing Date: _____, 20

Bond Ratings: [_____]

Principal Amount Issued: \$ _____ (See Attachment 1, Schedule A)

Estimated Upfront Securitization Costs: See Attachment 1, Schedule B.

Estimated Ongoing Securitization Costs: See Attachment 2, Schedule B.

Tranche	Coupon Rate	Scheduled Final Maturity Date	Legal Final Maturity
A-1	_____ %	____/____/____	____/____/____
A-2	_____ %	____/____/____	____/____/____
A-3	_____ %	____/____/____	____/____/____

	_____ %
Weighted Average Life of Series:	_____ years
Call provisions (including premium, if any):	
Amortization Schedule:	Attachment 2, Schedule A
Scheduled Final Maturity Dates:	Attachment 2, Schedule A
Legal Final Maturity Dates:	See Table Above
Payment Dates:	Semiannually Beginning _____, 2011
Redemption Provisions	
Weighted Average Coupon Rate:	_____
Annualized Weighted Average Yield:	_____

Attachment 3 shows the calculation for the initial securitization charge(s).

In accordance with the Financing Order, the securitization charge shall be billed [in each service area] beginning on XX, XXXX, *i.e.*, the first day of the first billing cycle of the next revenue month following the date of issuance of the Securitization Bonds.

The undersigned is an officer of Electrical Utility and authorized to deliver this Issuance Advice Letter on behalf of the Electrical Utility.

Respectfully submitted, [Electrical Utility]

By: _____
Name: _____
Title: _____
Date: _____

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ATTACHMENT 1
SCHEDULE A
CALCULATION OF SECURITIZATION COSTS TO BE FINANCED WITH
PROCEEDS OF BONDS

A.	Securitization Activity Costs	\$
B.	Estimated Upfront Securitization Costs (excluding Credit Enhancement)	
C.	Estimated Upfront Securitization Costs: Credit Enhancements (See Attachment 3 for Certification)	
	(See Attachment 1, Schedule B)	
TOTAL PRINCIPAL AMOUNT OF THE BONDS		\$

ATTACHMENT 1
SCHEDULE B
ESTIMATED UP-FRONT SECURITIZATION COSTS

Underwriters' Fees & Expenses	\$ _____
Electrical Utility's/SPE's/Intermediaries' Counsel and Underwriters' Counsel Legal Fees & Expenses	\$ _____
Rating Agency Fees	\$ _____
Electrical Utility's Financial Advisor Fees & Expenses	\$ _____
Printing/Edgarizing Expenses	\$ _____
SEC Registration Fee	\$ _____
Electrical Utility's Non-legal Securitization Proceeding Costs & Expenses	\$ _____
Electrical Utility's Miscellaneous Administrative Costs	\$ _____
Servicer's Set-Up Costs/Subservicer Set-Up Costs	\$ _____
Accountant's Fees	\$ _____
Trustee's/Trustee Counsel's Fees & Expenses	\$ _____
SPE Set-Up Costs	\$ _____
Original Issue Discount	\$ _____
Other Credit Enhancements (Overcollateralization Subaccount)	\$ _____
Rounding/Contingency	
TOTAL ESTIMATED UP-FRONT SECURITIZATION COSTS	\$ _____

ATTACHMENT 2
SCHEDULE A
SECURITIZATION BOND REVENUE REQUIREMENT INFORMATION

SERIES _____, TRANCHE _____				
Payment Date	Principal Balance	Interest	Principal	Total Payment
	\$	\$	\$	\$

SERIES _____, TRANCHE _____				
Payment Date	Principal Balance	Interest	Principal	Total Payment
	\$	\$	\$	\$

SERIES _____, TRANCHE _____				
Payment Date	Principal Balance	Interest	Principal	Total Payment
	\$	\$	\$	\$

ATTACHMENT 2
SCHEDULE B
ESTIMATED ONGOING SECURITIZATION COSTS

	ANNUAL AMOUNT
Ongoing Servicer Fees (Electrical Utility as Servicer)	\$ _____
Sub-servicer Fees (Central as subservicer)	\$ _____
Sub-servicer Fees (Central Contractors as subservicer)	\$ _____
Accounting Costs (External)	\$ _____
Administration Fees	\$ _____
Legal Fees/Expenses for Electric Utility's/SPE's Counsel	\$ _____
Trustee's/Trustee's Counsel Fees & Expenses	\$ _____
Independent Manager's Fees	\$ _____
Rating Agency Fees	\$ _____
Miscellaneous	\$ _____
Other Credit Enhancements	\$ _____
TOTAL ESTIMATED ANNUAL ONGOING SECURITIZATION COSTS	\$ _____

Note: The amounts shown for each category of ongoing securitization cost on this attachment are the expected expenses for the first year of the securitization bonds. Securitization charges will be adjusted at least semi-annually to reflect the actual Ongoing Securitization Costs through the true-up process described in the Financing Order.

ATTACHMENT 3
ELECTRICAL UTILITY CERTIFICATION FOR ANY CREDIT ENHANCEMENT

[TO COME]

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Appendix B
Allocation Methodology and Adjustment Mechanism for Securitization Charge

1. Responsibility for the payment of debt service on the Securitization Bonds and other Ongoing Securitization Costs comprising the Periodic Payment Requirement (PPR) will be shared equally by all CEU Customers, regardless of their location (i.e. regardless of the Contractor service area), based upon their electric (kWh) consumption.
2. The Periodic Billing Requirement (PBR) for any payment period (i.e., [six months]), which will represent the aggregate dollar amount of securitization charges that must be billed during the payment period so that the Securitization Charge collections will be sufficient to meet the PPR for that period, will be calculated based upon information provided by each Central Contractor to Central and the Servicer (as master sub-servicer and servicer, respectively), including (i) forecast usage data for the period; (ii) forecast uncollectibles for the period; (iii) forecast lags in collection of billed securitization charges for the period; and (iv) projected collections of securitization charges pending the implementation of the true-up adjustment.
3. On each true-up adjustment date, the Servicer will calculate the Securitization Charge for each payment period by

First: calculating the PBR for the first and the first two payment periods following the proposed adjustment date; and

Second, dividing the projected kWh sales in such period or periods by the PBR for such period or periods.
4. The calculation which yields the greater Securitization Charge (\$k/Wh) will be the Securitization Charge for the next payment period and thereafter until adjusted pursuant to the Adjustment Mechanism.
5. The Securitization Charge will be adjusted with the frequency set forth in the financing order.

Appendix C
Estimated Upfront and Ongoing Securitization Costs

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ATTACHMENT C-1
ESTIMATED UP-FRONT FINANCING COSTS

Underwriters' Fees & Expenses	\$ _____
Electrical Utility's/SPE's Counsel and Underwriters' Counsel Legal Fees & Expenses	\$ _____
Rating Agency Fees	\$ _____
Electrical Utility's Financial Advisor Fees & Expenses	\$ _____
Printing/Edgarizing Expenses	\$ _____
SEC Registration Fee	\$ _____
Electrical Utility's Non-legal Securitization Proceeding Costs & Expenses	\$ _____
Electrical Utility's Miscellaneous Administrative Costs	\$ _____
Servicer's Set-Up Costs	\$ _____
Accountant's Fees	\$ _____
Trustee's/Trustee Counsel's Fees & Expenses	\$ _____
SPE Set-Up Costs	\$ _____
Original Issue Discount	\$ _____
Other Credit Enhancements (Overcollateralization Subaccount)	\$ _____
Rounding/Contingency	
TOTAL ESTIMATED UP-FRONT SECURITIZATION COSTS	\$ _____

ATTACHMENT C-2**ESTIMATED ONGOING SECURITIZATION COSTS**

	ANNUAL AMOUNT
Ongoing Servicer Fees (Electrical Utility as Servicer)	\$ _____
Sub-servicer Fees (Central and Central Contractors as sub-servicers)	
Sub-servicer Fees (Central as subservicer)	\$ _____
Sub-servicer Fees (Central Contractors as subservicer)	\$ _____
Accounting Costs (External)	\$ _____
Administration Fees	\$ _____
Legal Fees/Expenses for Electrical Utility's/SPE's Counsel	\$ _____
Trustee's/Trustee's Counsel Fees & Expenses	\$ _____
Independent Manager's Fees	\$ _____
Rating Agency Fees	\$ _____
Miscellaneous	\$ _____
Other Credit Enhancements	\$ _____
TOTAL ESTIMATED ANNUAL ONGOING SECURITIZATION COSTS	\$ _____

Note: The amounts shown for each category of ongoing securitization cost on this attachment are the expected expenses for the first year of the securitization bonds. Securitization charges will be adjusted at least semi-annually to reflect the actual Ongoing Securitization Costs through the true-up process described in the Financing Order.

Appendix D
Form of True-Up Notice Letter for Securitization Charge

[Electrical Utility Letterhead]

Date: _____, 20xx

Commission

Office of Regulatory Affairs
[Address]

Re: **DOCKET NO. 2020- – ORDER NO. 2020-**

Petition for the issuance of a financing order in connection with the financing of the sale of certain electric assets of South Carolina Public Service Authority to NextEra Energy, Inc. through the issuance of securitization bonds pursuant to Act no. xx (CEU financing order)

Dear _____:

Pursuant to the Financing Order adopted on the _____ day of _____, 2020 in response to the Petition for the issuance of a CEU financing order in connection with the financing of the sale of certain electric assets of South Carolina Public Service Authority to NextEra Energy, Inc. through the issuance of securitization bonds pursuant to Act no. xx (the “**R&M Financing Order**”), [Electrical Utility] as Servicer of the Securitization Bonds or any successor Servicer, on behalf of the Trustee for the Securitization Bonds, (a) shall apply semi-annually or quarterly following the XX, XXXX (the last scheduled maturity date for the Securitization Bonds) for a mandatory periodic adjustment to the Securitization Charge, and (b) may apply at any time for an adjustment to the Securitization Charge as provided in Financing Order. Any capitalized terms not defined herein shall have the meanings ascribed thereto in the Financing Order or Act No. xx of the General Assembly of the State of South Carolina” codified at XXXXX.

Pursuant to the Financing Order, the review of a true-up notice by the Commission shall be administrative and limited only to determining whether there is any mathematical error in the application of the Adjustment Mechanism. The Office of Regulatory Staff shall review and make recommendations to the Commission regarding this true-up notice filed within thirty (30) days of receipt of this notice. Any such adjustments shall ensure the recovery of revenues sufficient to provide for the payment of the Securitization Bonds and all Ongoing Securitization Costs. Within forty-five (45) days after receipt of this true-up notice, the Commission shall either approve this request or inform us of any mathematical errors in this calculation. If the Commission informs us of a mathematical error in our calculation, we may correct the error and refile our request to correct the mathematical error so long as the adjustment goes into effect no later than sixty days following the initial filing. If the Commission does not approve the corrected adjustment as of such sixtieth day, the original true up adjustment will go into effect

and any adjustment to correct for the mathematical error shall be made in our next true-up filing. No error by us shall affect the validity of any true-up adjustment

Using the allocation methodology and Adjustment Mechanism set forth in the Financing Order, this filing modifies the variables used in the Securitization Charge calculation and provides the resulting modified Securitization Charge. The assumptions underlying the current Securitization Charge are shown in Table I below. Attachments 1 shows the resulting Securitization Charge calculated in accordance with the Financing Order.

Respectfully submitted,
 [NextEra SC]
 By:
 Name:
 Title:
 Date:

Attachment

Table I below shows the current assumptions for each of the variables used in the calculation of the Securitization Charge.

<u>TABLE I</u>	
<u>Input Values For Securitization Charge</u>	
<u>Applicable payment periods: from _____, _____ to _____, _____</u>	
<u>Forecasted kWh sales for the applicable payment period:</u>	
<u>Securitization Periodic Payment Requirement (PPR) for the applicable payment period:</u>	\$ _____
<u>Charge-off rate.</u>	
<u>Forecasted % of billings paid in the applicable payment period:</u>	_____ %

EXHIBIT S

FORM OF REQUIRED R&M FINANCING ORDER

[Attached]

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2020- – ORDER NO. 2020-
XXXX, 2020

IN RE: THE FINANCING OF THE SALE OF CERTAIN ELECTRIC ASSETS OF
SOUTH CAROLINA PUBLIC SERVICE AUTHORITY TO NEXTERA ENERGY, INC.
THROUGH THE ISSUANCE OF SECURITIZATION BONDS PURSUANT TO ACT
NO. XX
(R&M FINANCING ORDER)

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Appendix D	Form of True-Up Notice Letter

INTRODUCTION

This financing order addresses the request of the Electrical Utility (the “**Electrical Utility**” or “**Petitioner**”) under Act No. XX of the General Assembly of the State of South Carolina (the “**Act**”), codified at [XX] to issue a financing order, substantially in the form attached to Asset Purchase Agreement referred to below: (1) authorizing the Electrical Utility to finance, through the issuance of securitization bonds (the “**Bonds**”, “**Securitization Bonds**” or “**R&M Securitization Bonds**”), in an aggregate principal amount of approximately \$xx million, a portion of the pre-tax costs incurred by NextEra Energy, Inc. (the “**Buyer**”) or the Electrical Utility in connection with the acquisition of the electric assets of South Carolina Public Service Authority (the “**Authority**”), including certain financing costs associated with the issuance and structuring of the Securitization Bonds (“**Securitization Costs**” or “**R&M Securitization Costs**”); (2) approving the issuance of the Securitization Bonds; (3) creating securitization property, including the right to impose and collect non-bypassable securitization charges (“**Securitization Charges**” or “**R&M Securitization Charges**”), on end-use customers of the Electrical Utility or of municipal wholesale customers of the Electrical Utility (“**Customers**” or “**R&M Customers**”) sufficient to pay the securitization bonds and associated financing costs; (4) approving a methodology for allocating the costs of the Securitization among R&M Customers and a mechanism to adjust the Securitization Charges as required or permitted by this Financing Order; (5) approving servicing and sub-servicing arrangements to provide for the imposition, collection and remittance of the Securitization Charges; and (6) authorizing certain related actions.

This proceeding is a part of the Omnibus Proceeding, authorized by Section 58-71-730 of the Code of Laws of South Carolina 1976 (the “**Code**”), pursuant to which this Commission, within a consolidated single-docket, grants and separately issues all orders necessary or appropriate to authorize and enable the sale of the assets of the Authority (the “**Sale**”) pursuant to the Act and an asset purchase agreement dated XX, (the “**Asset Purchase Agreement**”) by and between the Department of Administration, on behalf of the Authority, and the Buyer. Pursuant to Section 58-31-840 of the Code, the Electrical Utility has petitioned the Commission, pursuant to a Petition filed on XX, XX (the “**Petition**”) to issue a financing order, consistent with the Act

and substantially in the form of the financing order included with the Asset Purchase Agreement, subject only to such changes that are acceptable to the Electrical Utility. As required by Section 58-31-840, the Cities of Bamberg and Georgetown (the “**Intermediaries**” or “**R&M Intermediaries**”) have been made a party to this proceeding and the Intermediaries have duly appointed the Electrical Utility to serve as their attorney-in-fact for the purposes of this proceeding.

Pursuant to the Petition, we issued this financing order, which we find to be consistent with the Act and substantially in the form of the R&M financing order (“**Petitioner’s proposed order**”) attached to the Asset Purchase Agreement. To facilitate compliance and consistency with the Act, this financing order adopts the definitions in the Act.

I. DISCUSSION AND STATUTORY OVERVIEW

On May 21, 2019, the General Assembly of the State of South Carolina (the “**General Assembly**”) passed, and on May 22, 2019 the Governor of the State of South Carolina approved, a Joint Resolution pursuant to which the South Carolina Department of Administration (the “**Department of Administration**”) established a process to receive competitive proposals for a possible sale of some or all of the assets of the Authority, management proposals designed to improve the efficiency and cost-effectiveness of Authority’s electric operations, and Authority’s proposal for reform, restructuring, and changes in operation.

On November 26, 2019, the Department of Administration received bids for sale, including the bid by the Buyer, a Florida corporation for purchase (“**Buyer’s Bid**”), and management proposals, as well as the Authority’s proposal for reform, restructuring, and changes in operation. On [●], Buyer and the Department of Administration entered into that certain Agreement to Transact obligating Buyer to comply with the terms of Buyer’s Bid and to execute the Asset Purchase Agreement in the event Buyer’s Bid was approved by the General Assembly.

The Department of Administration, as required by the Joint Resolution, (a) evaluated the bids for sale and management proposals received and verified and analyzed the Authority’s reform proposal; (b) facilitated the conduct of confidential negotiations between Central Electric

Power Cooperative Inc. (“**Central**”), on the one hand, and the participants in the Bidding Process (including Buyer), individually, on the other hand; and (c) concurrently presented recommendations of and justifications for Buyer’s Bid, one management proposal, and the Authority’s proposal to the Chairman of the Senate Finance Committee and the Chairman of the House of Representatives Ways and Means Committee.

On XX, 2020, the General Assembly passed, and on XX, 2020 the Governor of the State of South Carolina approved the Act which, among other things, approved Buyer’s Bid, including the terms set forth in the Asset Purchase Agreement and directed the sale of certain assets of the Authority to Buyer as described in the Asset Purchase Agreement.

The terms of the Asset Purchase Agreement require, among other conditions to the purchase, that a portion of the purchase price for the Acquired Electric Assets (as defined in the Asset Purchase Agreement) in the cumulative amount of \$1.325 billion Securitization Costs be financed through two securitization transactions, which, pursuant to the Act, shall be allocated between R&M Customers and CEU Customers, as defined in the Act, based on the historical three (3) year average of annual sales volumes of each set of customers subject to Securitization Charges. The Act included provisions (including specifically Section 58-31-840 of the Code) authorizing the Commission to issue two financing orders authorizing these securitization transactions. It is a condition to the Sale that these financing orders be final, binding and non-appealable.

This financing order, referred to in the Act and herein as the R&M financing order, is one of these two required financing orders.

In this financing order, we authorize the recovery of [\$XX million] of R&M Securitization Costs, based on the allocation of the Securitized Costs required by the Act, including an estimated [\$xx million] of costs of issuance and other financing costs which will be incurred in advance of, or in connection with, the issuance of the securitization bonds (collectively, “**Upfront Securitizations Costs**”, as more fully described herein), through the issuance of the R&M Securitization Bonds in a transaction described in this financing order. Under the Act, the costs of repaying the R&M Securitization Bonds, together with associated financing costs (herein referred to as “**Ongoing Securitization Costs**”, as more fully described

in herein) will be paid from Securitization Charges imposed upon all R&M Customers until the R&M Securitizations Bonds and all Ongoing Financing Costs are paid in full. The rights under this financing order to impose, bill, collect and receive Securitization Charges, including the right to obtain periodic adjustments to such charges pursuant to the Adjustment Mechanism (hereinafter referred to) constitutes R&M Securitization Property, as more fully described in the Act.

Under the Act, R&M Customers mean any Person in South Carolina that is an end-user of electricity and either (i) receives transmission or distribution services directly from the Electrical Utility or (ii) distribution services from a municipality that is at that time a direct wholesale customer of the Electrical Utility (i.e., an Intermediary). R&M Customers exclude any Person that is not allocated any costs for electric generating capacity under the rate structure of the Authority at the Closing Date, including those Persons designated as “off-system wholesale customers” under the rate structure of the Authority at the Closing Date.

Under the Act, the Securitization Charges are non-bypassable, meaning that the Securitization Charge cannot be avoided by a R&M Customer, and must be paid by the R&M Customer, regardless of whether the R&M Customer purchases its electricity from an alternative electricity provider and regardless of who generates that electricity. This financing order requires that any R&M Customer who self-generates their electricity must pay the Securitization Charges to the extent that such energy, or supplemental energy or emergency back-up power, is transmitted through use of the Electrical Utility’s or an Intermediary’s delivery system.

The Securitization Charges must be imposed on all R&M Customer bills and collected by the Electric Utility as servicer, or by an Intermediary, as sub-servicer, as described in this financing order. The Securitization Charges must be imposed and collected until all the R&M Securitizations Bonds and all Ongoing Financing Costs are paid in full.

Under the Act, the Intermediaries are made subject to the limited jurisdiction of the Commission solely for our consideration, adoption, oversight, and enforcement of this R&M financing order, including but not limited to the imposition, collection and use of R&M Securitization Charges, as authorized in this Article and by this financing order. In this financing order, the Commission pledges that it, through the Office of Regulatory Staff (“ORS”) or

otherwise, will enforce the obligations imposed by this financing order and the servicing arrangements described herein upon the Electrical Utility and the Intermediaries to ensure the timely and full repayment of the Securitization Bonds and Ongoing Securitization Costs.

Under the Act, the Securitization Charges must be subject to periodic adjustment from time to time pursuant to an Adjustment Mechanism, to ensure the timely payment of the Securitization Bonds and all Ongoing Securitization Costs. The Adjustment Mechanism is a formula-based mechanism for making expeditious periodic adjustments in the Securitization Charges that R&M Customers are required to pay under a financing order where such adjustments are necessary to correct for any over-collection or under-collection of the Securitization Charges or otherwise to ensure the timely payment of the Securitization Bonds and Ongoing Securitization Costs.

Under the Act, the State of South Carolina has pledged to and agreed with the securitization bondholders, the owners of the Securitization Property, the Buyer, and other financing parties that the State will not:

- (1) alter the provisions of the Act which authorize the Commission to make the Securitization Charges imposed by a financing order irrevocable, binding, and non-bypassable charges;
- (2) take or permit any action that impairs or would impair the value of the Securitization Property created pursuant to this financing order; or
- (3) except for adjustments pursuant to the Adjustment Mechanism, reduce, alter, or impair Securitization Charges that are to be imposed, collected, and remitted for the benefit of the bondholders and other financing parties, as applicable, until the Securitization Bonds and all Ongoing Financing Costs, and any contracts to be performed, in connection with the Securitization Bonds have been paid and performed in full.

After the earlier of the transfer of Securitization Property to an assignee or the issuance of securitization bonds authorized by this financing order, this financing order is irrevocable until all Securitization Bonds and Ongoing Securitization Costs, and any contracts to be performed, in connection with the Securitization Bonds have been paid and performed in full. Except in

connection with a refinancing or refunding of the Securitization Bonds, or to implement the Adjustment Mechanism, the Commission may not amend, modify, or terminate this financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust securitization charges approved in this financing order.

Nothing in the State and Commission agreements described above precludes a limitation or alteration in this financing order and the securitization property if and when full compensation is made for the full protection of the Securitization Charges collected pursuant to this financing order and the full protection of the Securitization Bondholders and any Assignee or Financing Party.

II. DESCRIPTION OF R&M SECURITIZATION TRANSACTION

A brief summary of the R&M securitization transaction and the authorizations granted under this financing order is provided in this section. The securitization transaction and authorizations are more fully described in the Findings of Fact and Ordering paragraphs of this financing order. In this financing order, we authorize the Electrical Utility to securitize and to cause Securitization Bonds to be issued, in an aggregate principal amount equal to the sum of: (a) \$xxx million of R&M Securitization Costs to fund the financing or refinancing of Securitization Activities, plus (b) the Upfront Securitization Costs associated with the issuance of the Securitization Bonds, which are estimated to be \$xx million, plus (c) any other Upfront Securitization Costs associated with obtaining any credit enhancements and other mechanisms designed to promote the credit quality and marketability of the Securitization Bonds. The estimated or final Upfront Securitization Costs will be determined by the Electrical Utility at or about the time of sale of the Securitization Bonds and identified in an Issuance Advice Letter, as described herein.

To facilitate the securitization, the R&M Securitization Bonds will be issued by a special purpose securitization funding entity (the “SPE”) created as a wholly-owned subsidiary of the Electrical Utility. The SPE will be organized and managed in a manner designed to maintain the SPE as a bankruptcy-remote entity that would not be affected by the bankruptcy of the Electrical Utility or any other affiliates of the Electrical Utility or any of their respective successors or assignees, as described in this financing order.

Simultaneous with the issuance of the R&M Securitization Bonds, the Electrical Utility will transfer the R&M Securitization Property created in the Electrical Utility, which includes the right to impose, collect, and receive R&M Securitization Charges along with the other rights arising pursuant to this financing order, to the SPE. The Securitization Bonds will be issued pursuant to an indenture and administered by an indenture trustee. The Securitization Bonds will be secured by and payable solely out of the R&M Securitization Property created pursuant to this financing order and other collateral held pursuant to an indenture. That collateral will be pledged by the SPE to the indenture trustee for the benefit of the holders of the Securitization Bonds and to secure payment due with respect to the bonds and the Ongoing Financing Costs relating to the bonds.

Pursuant to a servicing agreement, the Electrical Utility will act as the initial master servicer of the securitization charges for the SPE (in such capacity, the “**Servicer**”), will undertake to collect such charges from the R&M Customers and will remit, or cause those collections to be remitted, to the indenture trustee on behalf of and for the account of the SPE. The Servicer will be responsible for making, or cause to be made, any required or allowed true-ups of the securitization charges. Because the R&M Customers served by the Intermediaries are not retail customers of the Electrical Utility, but instead are retail customers of the Intermediaries, the Intermediaries will serve as sub-servicers. The Electrical Utility, as Servicer, will notify the Intermediaries of the Securitization Charge, which will be adjusted from time to time by the Electrical Utility based upon the Adjustment Mechanism and the usage information provided by the Intermediaries. The Intermediaries will bill and collect the securitization charge from the R&M Customers using their normal collection procedures. Further the Electrical Utility proposes that the Intermediaries, so long as such Intermediaries are wholesale customers, will remit the Securitization Charges as part of their normal monthly payment to the Electrical Utility. The Electrical Utility, in turn, will agree to allocate the first revenues received from the Intermediaries to the Securitization Charge, and remit the Securitization Charges to the bond trustee within two business days of receipt from the Intermediaries. In the event that an Intermediary is no longer a wholesale customer of the Electrical Utility, the Intermediary will be required to remit the Securitization Charges directly to the Servicer on a daily basis. If the Servicer defaults on its obligations under the servicing agreement, the indenture trustee may appoint a replacement servicer subject to the terms of this financing order. If an Intermediary

defaults in its sub-servicing obligations, the Electrical Utility may exercise its remedies, including termination under the sub-servicing arrangement, and upon request of the Electrical Utility, this Commission shall enforce those sub-servicing obligations, as required by the Act and this financing order.

In this financing order, we find the transaction structure and servicing arrangements as proposed by the Electrical Utility to be consistent with the Act and the Asset Purchase Agreement, and so approve them.

Securitization Charges will be calculated to be sufficient at all times to pay all debt service on the Securitization Bonds and the Ongoing Financing Costs on a timely basis. Pursuant to this financing order, the Securitization Charges will be a consumption-based (per kWh charge) calculated pursuant to the methodology described in Appendix B to this financing order. The Securitization Charges will be adjusted semi-annually or, following the scheduled final maturity of the Securitization Bonds, quarterly to ensure that the amount projected to be collected from Securitization Charges is sufficient to service the Securitization Bonds. The methodology for calculating the securitization charges is illustrated in Appendix B and the form of true-up notice letter is attached as Appendix D.

In this financing order, we find this methodology and the Adjustment Mechanism consistent with the Act and the Asset Purchase Agreement and so approve it.

Under the Act, we must specify the flexibility afforded to the Electrical Utility, consistent with the Asset Purchase Agreement, in establishing the final terms and conditions and pricing of the Securitization Bonds, including, but not limited to, repayment schedules, interest rates, redemption or repayment provisions, credit enhancements and other costs of issuance and financing costs, as well as the manner by which the Securitization Bonds are offered and sold. In this financing order, we grant great flexibility to the Electrical Utility on these matters, subject to an information filing made to us pursuant to the Issuance Advice Letter.

As noted in this financing order, we grant the Electrical Utility the right to recover, through securitization, Upfront Securitization Costs associated with the issuance of the Securitization Bonds. These Upfront Securitization Costs are estimated to be \$xx million, plus

the costs of any credit enhancements and other mechanisms designed to promote the credit quality and marketability of the Securitization Bonds. These Upfront Securitization Costs are described in greater detail in this financing order, including Appendix C hereto. While the Electrical Utility has provided estimates of such Upfront Securitization Costs, many of the costs will not be known until the issuance of the Securitization Bonds or even thereafter, when final invoices are submitted. In this financing order, we find that the Upfront Securitization Costs identified in the financing order to be consistent with the Act, and grant the Electrical Utility flexibility to recover all such costs (as finally incurred), subject only to an information filing of the Issuance Advice Letter.

In addition, in this financing order, we also grant to the Electrical Utility the flexibility to include hedges, credit enhancements, reserves or over-collateralization mechanisms designed to promote the credit quality and marketability of the R&M Securitization Bonds (collectively “**Credit Enhancements**”), and recover the costs of such Credit Enhancements, from bond proceeds or Securitization Charges, as described in this financing order. In addition, as further described in this financing order, we also grant the Electrical Utility the flexibility to determine, based upon the advice of counsel, the equity contribution required to be invested by Electrical Utility in the SPE to achieve the desired “debt-for-tax” treatment for the Securitization Bonds. We also approve the Electrical Utility’s right to a return on its investment in the SPE in an amount the equal to the interest rate on the longest maturing tranche of Securitization Bonds, as further described herein.

In this financing order, including Appendix C, we describe, in detail the Ongoing Securitization Costs which will be incurred by the SPE in connection with the repayment, administration and servicing of the Securitization Bonds. These Ongoing Securitization Costs must be recovered through the Securitization Charges, subject to the periodic true-up of those charges as provided in this financing order. The Electrical Utility estimates that the Ongoing Securitization Costs (exclusive of debt service on the Securitization Bonds) will be approximately \$XX for the first year following the issuance of the Securitization Bonds assuming that the Electrical Utility serves as Servicer and the Intermediaries serve as sub-servicers, respectively. The servicing costs could be significantly higher if any of the Electrical Utility or the Intermediaries default in their respective servicing obligations, and replacement

servicers or sub-servicers are required. The Commission finds that the recovery of these Ongoing Securitization Costs, as incurred, is consistent the Act and the Asset Purchase Agreement and authorizes their recovery from Securitization Charges, as such charges are adjusted from time to time through the Adjustment Mechanism.

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III. FINDINGS OF FACT

A. Identification and Procedure

1. Identification of Applicant and Intermediaries

1. [The Electrical Utility is an indirect, wholly-owned subsidiary of NextEra Energy, Inc. licensed to operate as an electric utility in the State
2. The City of Bamberg is a municipality formed under Sections et seq. of the Code.
3. The City of Georgetown is a municipality formed under Sections et seq. of the Code]

2. Procedural History [to come]

4. On XX, the Electrical Utility filed a Petition with the Commission requesting the issuance of an R&M financing order substantially in the form attached to the Asset Purchase Agreement.
5. [Describe procedural history]
6. On [DATE], the Commission issued this financing order.

B. Financing Costs and Amount to be Securitized

1. Securitization Costs

7. Securitization Costs as defined in the Act include the [pre-tax] costs incurred or to be incurred by the Buyer or the Electrical Utility, to finance or refinance, directly or indirectly, a portion of the cost of the Securitization Activity. Securitization Activity is defined in the Act to include the purchase of the Acquired Electric Assets by the Electrical Utility and other action taken pursuant to the Asset Purchase Agreement and the satisfaction of all conditions precedent to such purchase, include costs associated with undertaking a Securitization Activity.
8. The Buyer or the Electrical Utility has incurred or will incur pre-tax Securitization Costs in the aggregate amount of [\$xx billion], exclusive of Upfront Securitization Costs, in connection with the acquisition of the Acquired Electric Assets, and has requested the recovery of [\$mm] of these costs through the

issuance of R&M Securitization Bonds. These costs have been allocated to the R&M Customers based upon the three (3) year average of annual sales volumes, constitute R&M Securitization Costs under the Act and are eligible for recovery pursuant to this financing order.

2. Upfront and Ongoing Securitization Costs

9. Upfront Securitization Costs are those costs that will be incurred in advance of, or in connection with, the issuance of the Securitization Bonds, and those costs will be recovered, funded or reimbursed from Securitization Bond proceeds, as provided in this financing order. Upfront Securitization Costs include, without limitation, underwriting costs (fees and expenses), rating agency fees, costs of obtaining Credit Enhancements, including swap and hedge transactions (if any), fees and expenses of the Electrical Utility's legal advisors and any legal advisors to the Intermediaries, fees and expenses of the financial advisor to the Electrical Utility, SEC registration fees (if any), original issue discount, external servicing and subservicing costs (including the costs of Intermediaries or any other collection agent), fees and expenses of the trustee and its counsel (if any), servicer and sub-servicer set-up costs, printing and filing costs, set-up costs relating to the SPE, costs and expenses of the Electrical Utility or the Intermediaries of obtaining this financing order, and miscellaneous administrative costs.
10. Ongoing Securitization Costs are those that will be incurred annually to support and service the Securitization Bonds after issuance, and those costs will be recovered or paid from Securitization Charges. Ongoing Securitization Costs include, among other costs, the fees and expenses of the Servicer and subservicing fees and expenses of the Intermediaries (or any other Intermediary or collection agent), administrative fees, fees and expenses of the trustee and its counsel (if any), external accountants' fees, external legal fees and expenses, ongoing costs of any Credit Enhancement (if any), independent manager's fees, rating agency fees, printing and filing costs, true-up administration fees, and other miscellaneous costs.

11. The initial servicing fee of the initial Servicer and the two Intermediaries will be fixed by contract. The administration fee charges by the Electrical Utility will also be fixed by contract. The remaining Ongoing Securitization Costs that will be incurred in connection with the Securitization Bonds are outside the control of the Electrical Utility, since the Electrical Utility cannot control the administrative, legal and other fees to be incurred by other parties on an ongoing basis. All actual Ongoing Securitization Costs as incurred will be recoverable through the Securitization Charges.
12. The Electrical Utility, in Appendix C, has provided estimates of Upfront Financing Costs totaling approximately \$___ million, including the cost of Credit Enhancements designed to promote the credit quality and marketability of the securitization bonds, if any. The Electrical Utility has also provided estimates of the Ongoing Financing Costs for the first year following the issuance of the Securitization Bonds in Appendix C, which are approximately \$_____, assuming the Electrical Utility is the servicer, and the Intermediaries are the sub-servicers, respectively. The Electrical Utility will update the Upfront Securitization Costs and Ongoing Securitization Costs in the Issuance Advice Letter.

3. Amount to be Securitized

13. The Electrical Utility has requested and should have the authority to cause Securitization Bonds to be issued in an aggregate principal amount equal to the sum of: (a) \$xxx million of R&M Securitization Costs to fund the financing or refinancing of Securitization Activities, plus (b) the actual Upfront Securitization Costs for the Securitization Bonds incurred in the transaction, which are estimated to be \$xx million, plus (c) any other Upfront Securitization Costs associated with obtaining any credit enhancements and other mechanisms designed to promote the credit quality and marketability of the Securitization Bonds (i.e., Credit Enhancement). The total principal amount of the Securitization Bonds so issued, including the cost of any Credit Enhancement, will be set forth in the Issuance Advice Letter.

4. Issuance Advice Letter; Upfront Securitization Cost Filing

14. Because the Petition reflects the terms of an Asset Purchase Agreement which has been fully negotiated among the Buyer, the Electrical Utility, and the Authority, and because the Intermediaries have been parties to this proceeding, we grant great flexibility to the Electrical Utility to determine the final structure and terms of the securitization bonds and their pricing, the amount of Upfront Securitization Costs and the Ongoing Securitization Costs which will be incurred in connection with the securitization bonds, and as well as the manner by which the Securitization Bonds are offered and sold.
15. Following the determination of the final terms and structure of the Securitization Bonds, the Electrical Utility will file with the Commission Clerk, at least two business days prior to the issuance of the Securitization Bonds, an Issuance Advice Letter in substantially the form attached as Appendix A to this financing order. The Issuance Advice Letter will be an informational filing only and will include the estimated Upfront Securitization Costs, the estimated Ongoing Securitization Costs for the first year following issuance of the bonds, a calculation of the initial Securitization Charge, as well as a description of the final terms and pricing of the Securitization Bonds, including principal amount, interest rates, redemption provisions and other details, as required by the Issuance Advice Letter.
16. Upon filing the Issuance Advice Letter with the Commission Clerk, the Electrical Utility will be irrevocably authorized to proceed with the issuance of the Securitization Bonds described in the Issuance Advice Letter. The Commission Clerk will provide acknowledgement of receipt of the Issuance Advice Letter at the request of the Electrical Utility.
17. Within 90 days of the filing of the Issuance Advice Letter, the Electrical Utility will submit to the Commission a final accounting of its Upfront Securitization Costs. If the actual Upfront Securitization Costs are less than the Upfront Securitization Costs included in the principal amount financed, the Periodic Billing Requirement (as defined in Finding of Fact 58) for the first semi-annual

true-up adjustment shall be reduced by the amount of such unused funds (together with income earned thereon through investment by the trustee in eligible investments) and such unused funds (together with income earned thereon through investment by the trustee in eligible investments) shall be available for payment of debt service on the bond payment date next succeeding such true-up adjustment. If the actual Upfront Securitization Costs are more than the Upfront Securitization Costs included in the principal amount securitized, the Periodic Billing Requirement for the next semi-annual true-up adjustments shall be increased by the amount of such deficiency and the Electrical Utility will be permitted to recover such costs in a manner subordinate to the payment of the Securitization Bonds, all as provided in the financing documents

C. Structure of the Proposed Financing

1. The Issuer

18. For purposes of this securitization, the Electrical Utility will create the SPE, a special purpose securitization funding entity which will, be a South Carolina limited liability company with the Electrical Utility as its sole member. The SPE will be formed for the limited purpose of acquiring the R&M Securitization Property, issuing the R&M Securitization Bonds (which may include securitization bonds authorized by the Commission in a subsequent financing order to refinance the R&M Securitization Bonds), and performing other activities relating thereto or otherwise authorized by this financing order. The SPE will not be permitted to engage in any other activities and will have no assets other than the R&M Securitization Property and related assets to support its obligations under the Securitization Bonds. Obligations relating to the R&M Securitization Bonds will be the SPE's only significant liabilities. These restrictions on the activities of the SPE and restrictions on the ability of the Electrical Utility to take action on the SPE's behalf are imposed to achieve the objective of ensuring that the SPE will be bankruptcy-remote and not affected by a bankruptcy of the Electrical Utility or any related entity. The SPE will be managed by a board of managers with rights and duties similar to those of a board of directors of a

corporation. As long as the R&M Securitization Bonds remain outstanding, the SPE will have at least one independent manager with no organizational affiliation with Electrical Utility other than acting as independent managers for any other bankruptcy-remote subsidiary of Electrical Utility or its affiliates. The SPE will not be permitted to amend the provisions of the organizational documents that ensure bankruptcy-remoteness of the SPE without the affirmative vote of a majority of its managers, which vote must include the affirmative vote of all the independent managers. Similarly, the SPE will not be permitted to institute bankruptcy or insolvency proceedings or to consent to the institution of bankruptcy or insolvency proceedings against it, or to dissolve, liquidate, consolidate, convert, or merge without the prior unanimous consent of its managers. Other restrictions to ensure bankruptcy-remoteness may also be included in the organizational documents of the SPE as required by the rating agencies.

19. The initial capital of the SPE will be a nominal amount of \$100. Concurrently with the issuance of the R&M Securitization Bonds, a capital contribution will be invested by Electrical Utility in the SPE in an amount equal to at least $\frac{1}{2}$ of 1% of the original principal amount of the R&M Securitization Bonds, to assure the desired federal income tax treatment for the securitization bond transaction. The Electrical Utility will determine the required level of capital funding for the SPE in reliance upon the opinion of nationally recognized tax counsel, and will be entitled to a return on its equity investment equal to the interest rate on the longest maturing tranche of Securitization Bonds, which will be paid an Ongoing Securitization Cost from Securitization Charges.
20. The use and proposed structure of the SPE and the limitations related to its organization and management, as described herein, are consistent with the Act and other utility securitizations and Petitioner's draft financing order and should be approved. In addition, the funding of the SPE at a level determined by special tax counsel is reasonable, consistent with the Act and Petitioner's proposed financing order, and should be approved.

2. Structure and Documents

21. The SPE will issue Securitization Bonds consisting of one or more tranches, in an aggregate amount not to exceed the principal amount approved by this financing order and will pledge to the indenture trustee, as collateral for payment of the Securitization Bonds, the R&M Securitization Property, including the SPE's right to receive the Securitization Charges as and when collected, and certain other collateral described in the Indenture (hereinafter referred to).
22. Concurrent with the issuance of any of the Securitization Bonds, the Electrical Utility will transfer to the SPE all of the Electrical Utility's rights under this financing order, including without limitation, the rights to impose, collect, and receive the R&M Securitization Charges approved in this financing order, but excluding the Electrical Utility's right to recover remaining Upfront Securitization Costs under Finding of Fact 17 (the "**Electrical Utility Retained Rights**"). This transfer will be structured so that it will qualify as a true sale within the meaning of Section 58-31-840(E)(3) of the Code. By virtue of the transfer, the SPE will acquire all of the right, title, and interest of the Electrical Utility's in such R&M Securitization Property.
23. The payment of the R&M Securitization Charges authorized by this financing order will be at all times sufficient to pay the principal of and interest on the Securitization Bonds, together with Ongoing Securitization Costs. The Securitization Bonds will be issued pursuant to the indenture administered by the indenture trustee. The indenture will include provisions for a collection account and subaccounts for the collection and administration of the securitization charges and payment or funding of the principal and interest on the Securitization Bonds and other financing costs in connection with the Securitization Bonds. Any securitization charge revenues not required for the current payment of principal and interest due on the bonds, together with Ongoing Securitization Costs, including but not limited to the funding of any overcollateralization or reserve account or other Credit Enhancements, will be available to pay such amounts in a future period.

24. The Electrical Utility has prepared and submitted as part of the Petition proposed forms of an Indenture, a Limited Liability Electrical Utility Operating Agreement (for the SPE), a Purchase and Sale Agreement, an Administration Agreement, a Servicing Agreement, and a Subservicing Agreement (between the Electrical Utility and each Intermediary) (the Servicing Agreement, and the Subservicing Agreements are collectively referred to as the “**Servicing Documents**”, and collectively with the other documents, the “**Basic Transaction Documents**”), setting out in substantial detail terms and conditions relating to the transaction and security structure. We find the Basic Transaction Documents consistent with the Act and grant the Electrical Utility the flexibility to amend such documents as necessary or appropriate, in the opinion of the Electrical Utility, to conform to market conditions, rating agency requirements or to conform to the final terms of the Securitization Bonds.
25. The Electrical Utility’s will also prepare a proposed form of offering memorandum, term sheet or other offering documents to be used in connection with the offering and sale of the Securitization Bonds. These offering materials will be provided to the Commission and the Office of Regulatory Staff upon request for informational purposes.

3. **Credit Enhancement and Arrangements to Enhance Marketability**

26. The Electrical Utility requests authority to use additional forms of credit enhancement (including hedging arrangements, letters of credit, reserve or overcollateralization accounts, surety bonds, or guarantees) and other mechanisms designed to promote the credit quality and marketability of the securitization bonds or to stabilize rates or provide other benefits to customers (as herein, “**Credit Enhancements**”). The Electrical Utility will describe such Credit Enhancements in the Issuance Advice Letter, and the costs of any Credit Enhancements will be included in the amount of Upfront Securitization Costs or as Ongoing Financing Costs, as appropriate. The Electrical Utility should be permitted to employ Credit Enhancements to enhance marketability or credit quality of the Securitization Bonds, and to recover the Upfront Securitization

Costs and Ongoing Securitization Costs associated therewith, provided that in the Issuance Advice Letter, the Electrical Utility states its reasonable belief (which may be based solely upon the advice of its financial advisor or investment banker) that such Credit Enhancement is likely to provide benefits greater than its costs. This finding does not apply to the collection account, or its subaccounts, including any reserve account, which are otherwise approved in this financing order.

27. The Electrical Utility's proposed use of Credit Enhancements, including hedging arrangements, is consistent with the Act and Petitioner's draft financing order and should be approved, subject to the informational filing in the Issuance Advice Letter.

4. Securitization Property

28. Pursuant to Section 58-31-71(52) of the Code, the R&M Securitization Property consists of the following:

- (1) the rights and interests of the Electrical Utility or the successor or assignee of the Electrical Utility under this financing order, including the right to impose, bill, charge, collect, and receive R&M Securitization Charges authorized in this financing order and to obtain periodic adjustments to such charges pursuant to the Adjustment Mechanism as are provided in this financing order, except for the Electrical Utility Retained Rights, and
- (2) all revenues, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in the first numbered bullet of this Paragraph, regardless of whether such revenues, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, money, or proceeds.

29. Pursuant to Section 58-31-840(B)(3), the creation of the R&M Securitization Property will be simultaneous with the sale of the R&M Securitization Property to

the SPE and the pledge of the Securitization Property to secure payment of the Securitization Bonds.

30. Pursuant to Section 58-31-840(E)(1)(b) of the Code, the R&M Securitization Property created by this financing order will continue to exist until the Securitization Bonds issued pursuant to this financing order and all Ongoing Securitization Costs are paid in full
31. The R&M Securitization Property and all other collateral will be held (in pledge) and administered by the indenture trustee pursuant to the Indenture.

5. Servicers and the Servicing Arrangements

32. Pursuant to the Servicing Agreement, the Electrical Utility will act as the initial Servicer of the securitization charges for the SPE and will undertake to collect or cause such charges to be collected from the R&M Customers and will remit, or cause those collections to be remitted, to the indenture trustee on behalf of and for the account of the SPE. The Servicer will be responsible for making, or causing to be made, any required or allowed true-ups of the securitization charges.
33. Because the R&M Customers of the Intermediaries are not retail customers of the Electrical Utility, but instead of retail customers of the Intermediaries, the Electrical Utility will notify the Intermediaries of the R&M Securitization Charge, which will be adjusted from time to time by the Electrical Utility based upon the Adjustment Mechanism and, in part, upon the usage information provided by the Intermediaries. The Intermediaries, in turn, will bill and collect the charge from the R&M Customer in their respective service areas using their normal collection procedures. The Servicer and sub-servicers must account for and remit the applicable securitization charges to or for the account of the SPE or its assigns or pledgees in accordance with the remittance procedures contained in the Servicing Documents, without any charge, deduction or surcharge of any kind (other than the servicing fee specified in the Servicing Document).
34. Further, pursuant to the Servicing Documents, the Intermediaries, so long as they are wholesale customers of the Electrical Utility, will be permitted to remit the

Securitization Charges as part of their normal monthly payment to the Electrical Utility. The Electrical Utility, in turn, will allocate the first revenues received from the Intermediaries to the R&M Securitization Charge, and remit the R&M Securitization Charges to the bond trustee within two business days of receipt from the Intermediaries. In the event that an Intermediary is no longer a wholesale customer of the Electrical Utility, the Intermediary will be required to remit the Securitization Charges directly to the Servicer on a daily basis in accordance with the Subservicing Agreement.

35. If the Servicer defaults on its obligations under the servicing agreement, the indenture trustee may appoint a replacement servicer subject to the terms of and the indenture. If either of the Intermediaries default under their sub-servicing agreements, the Servicer, or upon petition of the Servicer or the SPE, this Commission, is entitled take action to enforce the provisions of the subservicing arrangements Section 58-31-840(C)(1) of the Code.
36. The rights of the SPE under the Servicing Documents will be included in the collateral pledged by the SPE to the indenture trustee under the indenture for the benefit of holders of the Securitization Bonds.
37. The Servicer and sub-servicers will be entitled to annual servicing fees, and to the recovery of fees and expenses, as set forth in Appendix C and as provided in the Servicing Documents. The Commission approves the servicing fees and servicing arrangements as described in the Servicing Documents. The Commission also approves, (a) in the event of a default by the initial Servicer resulting in the appointment of a successor servicer, a higher annual servicing fee of up to [0.60%] of the initial principal balance of the securitization bonds unless the Electrical Utility can reasonably demonstrate to the Commission that the services cannot be obtained at that compensation level under the market conditions at that time, and (b) in the event of a default by an Intermediary, such additional compensation as determined necessary by the Servicer to pay for alternative servicing arrangements consistent with the requirements of the Basic Transaction Documents.

38. In addition to the servicing fee, the Electrical Utility will be entitled to an annual administration fee for providing administrative and support services to the SPE. The Commission approves the fixed annual administration fee as described herein.
39. The obligations to continue to provide service and to collect and account for R&M Securitization Charges will be binding upon the Electrical Utility, and upon the Intermediaries, including any other entity (as a successor to the Electrical Utility or an Intermediary) that provides transmission or distribution electric services, directly or indirectly, to a R&M Customer.
40. If the Electrical Utility or an Intermediary sells, assigns or otherwise divests any of its transmission or distribution system or any facilities providing service to R&M Customers, by any method whatsoever, including those specified in Ordering Paragraph 38 pursuant to which an entity becomes a successor, such entity acquiring such system or portion thereof shall agree to continue operating the facilities to provide service to R&M Customers and to assume any servicing or subservicing contract obligations under the Servicing Documents.
41. The Commission, through the ORS or otherwise, will enforce the obligations imposed by this financing order and the Servicing Documents upon the Electrical Utility and all Intermediaries, to ensure the timely and full repayment of the R&M Securitization Bonds and other Ongoing Securitization Costs, as required by Section 58-31-840(C)(1) of the Code.
42. The Servicing Documents and servicing arrangements described in Findings of Fact 32 through 41 are reasonable, consistent with the Act and Petitioner's proposed financing order and should be approved.

6. Securitization Bonds

43. The R&M Securitization Bonds (i) will have a final maturity no later than XX, XXX, with a scheduled final maturity no later than XX, XX (each final maturity being no later than two years following the scheduled maturity date), (ii) will be amortized to provide for substantially level debt service requirements each year

over the life of the Securitization Bonds, and (iii) will bear interest at the rate or rates determined at the time of pricing and set forth in the Issuance Advice Letter. The Electrical Utility estimates in its Petition that the average interest rate on the Securitization Bonds would be approximately [X%] based upon current market conditions. The Electrical Utility has requested that the final terms of the bonds, including payment dates, redemption provisions and other details, will be determined on or about the date of issuance, and has requested flexibility in establishing such final terms. The Electrical Utility has also requested flexibility to sell and offer the bonds at such prices and in in such manner, whether a SEC registered sale or Rule 144 offering, as it deems appropriate.

44. The Commission finds that the proposed bond terms are consistent with the Act and the Petitioner's proposed financing order, and should be approved, and the Electrical Utility should be afforded the flexibility to determine final terms and structure of the Securitization Bonds, consistent with this financing order, including the manner of offer and sale of the bonds which will be set forth in the Issuance Advice Letter.

7. Security for Securitization Bonds

45. The payment of the Securitization Bonds and Ongoing Securitization Costs authorized by this financing order are to be secured by the R&M Securitization Property created by this financing order and by certain other collateral as described in the Petition. The Securitization Bonds will be issued pursuant to the indenture administered by the indenture trustee. The Indenture will include provisions for a collection account and subaccounts for the collection and administration of the securitization charges and payment or funding of the principal and interest on the securitization bonds and other costs, including fees and expenses, in connection with the securitization bonds. Pursuant to the Indenture, the SPE will establish a collection account as a trust account to be held by the indenture trustee as collateral to ensure the payment of the principal, interest, and other costs approved in this financing order related to the Securitization Bonds in full and on a timely basis. The collection account will

include the general subaccount, the capital subaccount, and the excess funds subaccount, and may include other subaccounts. The indenture trustee will deposit the securitization charge remittances that the servicer remits to the indenture trustee for the account of the SPE into one or more segregated trust accounts and allocate the amount of those remittances to the general subaccount. The indenture trustee will on a periodic basis apply money in this subaccount to pay expenses of the SPE, to pay principal and interest on the Securitization Bonds, and to meet the funding requirements of the other subaccounts. The funds in the general subaccount will be invested by the indenture trustee as provided in the indenture, and such funds (including, to the extent necessary, investment earnings) will be applied by the indenture trustee to pay principal and interest on the Securitization Bonds and all other components of the Periodic Payment Requirement (“PPR”) (as defined in Finding of Fact 57), and otherwise in accordance with the Indenture.

46. When the Securitization Bonds are issued, the Electrical Utility will make a capital investment to the SPE, which the SPE will deposit into the capital subaccount. The amount of the capital investment will be determined by the Electrical Utility in accordance with legal and tax advice. The capital subaccount will serve as collateral to ensure timely payment of principal and interest on the securitization bonds and all other components of the PPR. The funds in this subaccount will be invested by the indenture trustee as provided in the indenture. Any amounts in the capital subaccount will be available to be used by the indenture trustee to pay principal and interest on the securitization bonds and all other components of the PPR if necessary due to a shortfall in securitization charge collections. Any funds drawn from the capital account to pay these amounts due to a shortfall in the securitization charge collections will be replenished securitization charge remittances.
47. The capital investment to the SPE will be funded by the Electrical Utility. Proceeds from the sale of the Securitization Bonds will not be used to offset the amount of the capital contribution. Furthermore, the Commission finds that the Electrical Utility may earn a rate of return on its capital investment in the SPE

equal to the rate of interest payable on the longest maturing tranche of the Securitization Bonds (the “**Capital Return Rate**”), to be paid from securitization charge revenues.

48. The excess funds subaccount will hold any securitization charge remittances and investment earnings on the collection account in excess of the amounts needed to pay current principal and interest on the Securitization Bonds and to pay other PPRs (including, but not limited to, replenishing the capital subaccount). Any balance in or allocated to the excess funds subaccount on a true-up adjustment date will be subtracted from the Periodic Billing Requirement (“**PBR**”) (as defined in Finding of Fact 58) for purposes of the true-up adjustment. The money in this subaccount will be invested by the indenture trustee as provided in the indenture, and such money (including investment earnings thereon) will be used by the indenture trustee to pay principal and interest on the securitization bonds and other PPRs.
49. Other Credit Enhancements, including reserve or over-collateralization subaccounts may be utilized for the transaction if such enhancements provide benefits greater than their costs, as determined by the Electrical Utility and described in the Issuance Advice Letter.

8. General Provisions

50. The collection account and the subaccounts described above are intended to provide for full and timely payment of scheduled principal and interest on the securitization bonds and all other components of the PPR. If the amount of securitization charges remitted to the general subaccount is insufficient to make all scheduled payments of principal and interest on the securitization bonds and to make payment on all of the other components of the PPR, the capital subaccount will be drawn down to make those payments. Any reduction or deficiency in the capital subaccount due to such withdrawals must be replenished to the capital subaccount on a periodic basis through the true-up process. In addition to the foregoing, there may be such additional accounts and subaccounts as are necessary to segregate amounts received from various sources, or to be used for

specified purposes, including accounts established pursuant to any sub-servicing arrangements. Such accounts will be administered and utilized as set forth in the Servicing Contracts and the Indenture. Upon the payment of all Securitization Bonds and the discharge of all obligations, including all financing costs in respect thereof, remaining amounts in the collection account, other than amounts that were in the capital subaccount, will be released to the SPE and equivalent amounts will be credited by the Electrical Utility or an Intermediary to R&M Customers consistent with Ordering Paragraph 25.

51. The use of a collection account and its subaccounts in the manner proposed by the Electrical Utility is reasonable, and consistent with the Act and the Petitioner's proposed financing order, and should be approved.

9. Securitization Charges—Imposition and Collection and Non-bypassability

52. CEU Securitization Charges will be imposed on and collected from R&M electric customers in an amount sufficient to provide for the full and timely payment of principal and interest on the Securitization Bonds and the payment or recovery of all Ongoing Financing Costs. The R&M Securitization Charges shall be in addition to the other rates of the Electrical Utility or Intermediary collecting such charge. The securitization charges imposed by this financing order are irrevocable, binding and non-bypassable charges (to the extent provided in the Act and this financing order).
53. The Electrical Utility and each Intermediary will include in its customer bills, at least semi-annually, through an insert or otherwise, a statement to the effect the SPE is the owner of the rights to the R&M Securitization Charges collected as part of its billing process, and the Electrical Utility or the Intermediary (as the case may be) is a collection agent or servicer for the SPE.
54. If any R&M Customer does not pay the full amount of any bill, the Electrical Utility or other Intermediary will allocate all Customer revenue pro-rata between the securitization charge and the remaining Customer charges as required by Section 58-31-840(D)(1) of the Code. However, as authorized by such section of the Code and as requested in the Petition, the Electrical Utility is permitted to

apply all revenue received from the Intermediaries first to the payment of securitization charges due and owing and then to other wholesale customer charges. If this procedure results in temporary advances being made to the SPE by the Electrical Utility, the Electrical Utility will be permitted to recover a return on such advances(calculated at the Capital Return Rate) from R&M Customers in the service areas of the Intermediaries as set forth in the Servicing Contracts.

55. The Act requires that the Securitization Charges be “non-bypassable”, meaning that the charge cannot be avoided by R&M Customers. The Non-bypassable charge must be paid by the Customer, regardless of whether the Customer purchases its electricity from an alternative electricity provider and regardless of who generates that electricity. R&M Customers who self-generate their electricity must pay the Securitization Charges to the extent that such energy, or any supplemental energy or emergency back-up power, is transmitted through use of an Electrical Utility’s or Intermediary’s delivery system. Pursuant to the Act and other legal authority, the Commission herein provides that, in the event that there is a fundamental change in the manner of regulation of public utilities, which allows third parties other than the Servicer or an Intermediary to bill and collect securitization charges, the securitization charge shall be billed, collected and remitted to the Servicer or an Intermediary in a manner that will not cause any of the then current credit ratings of the Securitization Bonds to be suspended, withdrawn or downgraded.
56. The Commission finds that such non-bypassability provisions described in Findings of Fact 52 through 55 are consistent the Act and Petitioner’s proposed financing order, and should be approved.

10. Periodic Payment Requirements; Allocation of Payment Responsibility

57. The PPR is the required periodic payment for a given period under the securitization bonds. As to be more fully specified in the Basic Financing Documents, each PPR includes: (a) the principal amortization of the Securitization Bonds in accordance with the expected amortization schedule (including deficiencies of previously-scheduled principal for any reason);

(b) periodic interest on the Securitization Bonds (including any accrued and unpaid interest); and (c) all Ongoing Securitization Costs. The initial PPR for the Securitization Bonds issued pursuant to this financing order will be updated in the Issuance Advice Letter.

58. The PBR represents the aggregate dollar amount of securitization charges that must be billed during a given period so that the securitization charge collections will be sufficient to meet the PPR for that period based upon: (i) forecast usage data for the period; (ii) forecast uncollectibles for the period; (iii) forecast lags in collection of billed securitization charges for the period; and (iv) projected collections of securitization charges pending the implementation of the true-up adjustment. Any required forecasted data from the Intermediaries will be provided by the Intermediaries to the Electrical Utility, as Servicer, pursuant to the Servicing Documents.
59. The Electrical Utility will allocate the PPR and PBR among the R&M Customers as described in Appendix B. This methodology is consistent with the Act and with the Petitioner's proposed financing order and should be approved.

11. Calculation and True-Up of Securitization Charges

60. Consistent with Section 58-31-710(4) of the Code, the Servicer will make, or cause to be made, mandatory semi-annual adjustments (*i.e.*, every six months, except for the first true-up adjustment period, which may be longer or shorter than six months, but in any event no more than nine months) to the securitization charges to:
- (a) correct any under-collections or over-collections (both actual and projected), for any reason, during the period preceding the next true-up adjustment date; and
 - (b) to ensure the projected recovery of amounts sufficient to provide timely payment of the scheduled principal of and interest on the Securitization Bonds and all other Ongoing Securitization Costs (including any necessary replenishment of the capital subaccount) during the subsequent

12-month period (or in the case of quarterly true-up adjustments described below, the period ending the next bond payment date).

61. In addition, (i) to the extent any Securitization Bonds remain outstanding after the scheduled maturity date of the last bond tranche or class, the Servicer shall make mandatory true-up adjustments quarterly until all Securitization Bonds and Ongoing Securitization Costs are paid in full; and (ii) the Servicer will have the right to make interim true-up adjustments more frequently at any time during the term of the Securitization Bonds: (A) if the Servicer forecasts that securitization charge collections will be insufficient to make on a timely basis all scheduled payments of principal and interest on the Securitization Bonds and other Ongoing Securitization Costs during the current or next succeeding payment period and/or (ii) to replenish any draws upon the capital subaccount or on any reserve or over-collateralization account.
62. Consistent with Section 58-31-710(4) of the Code, the Servicer, on behalf of the SPE, shall file with the Commission and the Office of Regulatory Staff at least semi-annually, a true-up notice in the form of Appendix D to this financing order. The review of such a true-up notice shall be administrative and limited only to determining whether there is any mathematical error in the application of the Adjustment Mechanism. The Office of Regulatory Staff shall review and make recommendations to the Commission regarding the true-up notice filed within thirty (30) days of receipt. Any such adjustments shall ensure the recovery of revenues sufficient to provide for the payment of the Securitization Bonds and all Ongoing Securitization Costs. Within forty-five (45) days after receiving a true-up notice, this Commission shall either approve the request or inform the Electrical Utility (or any servicer on its or their behalf) of any mathematical errors in its calculation. If the Commission informs the Servicer of mathematical errors in its calculation, the Servicer may correct its error and refile its request to correct the mathematical error so long as the adjustment goes into effect no later than sixty days following the initial filing. If the corrected adjustment does not go into effect as of such sixtieth day, the original true up adjustment will go into effect and any adjustment to correct for the mathematical error shall be made in the next

true-up filing. No error by the Servicer shall affect the validity of any true-up adjustment.

63. True-up filings will be based upon the cumulative differences, regardless of the reason, between the PPR (including scheduled principal and interest payments on the Securitization Bonds and Ongoing Securitization Costs) and the amount of securitization charge remittances to the indenture trustee. True-up procedures are necessary to ensure full recovery of amounts sufficient to meet on a timely basis the PPR over the scheduled life of the Securitization Bonds. In order to assure adequate securitization charge revenues to fund the PPR and to avoid large over-collections and under-collections over time, the Servicer will use its best efforts to reconcile the securitization charges using the Electrical Utility's most recent forecast of usage, demand and base rate revenues and estimates of financing costs, together with usage and demand information made available to the Servicer by the Intermediaries. The calculation of the securitization charges will also reflect both a projection of uncollectible securitization charges and a projection of payment lags between the billing and collection of securitization charges based upon the Electrical Utility's most recent experience regarding collection of securitization charges, together with similar information made available to the Electrical Utility by the Intermediaries. No failure on the part of the Servicer to use the most recent forecast of usage, demand, base rate revenues, payment lags or delinquency data or projections from the Electrical Utility or the Intermediaries (as applicable) shall affect the validity of any true-up adjustment.
64. The methodology proposed to calculate and adjust the securitization charges from time to time described in Appendix B and in Findings of Fact 60 through 63 is consistent with the Act and with Petitioner's proposed financing order, and should be approved.
65. The Servicer will calculate and include the initial securitization charge in the Issuance Advice Letter.

D. Use of Proceeds

66. Upon the issuance of securitization bonds, the SPE will use the net proceeds from the sale of the Securitization Bonds (after payment of Upfront Securitization Costs payable by the SPE) to pay to the Electrical Utility the purchase price of the Electrical Utility's rights under this financing order (except the Electrical Utility Retained Rights), which are R&M Securitization Property.
67. The Electrical Utility will use the proceeds to recover, finance or re-finance the costs of Securitization Activities.

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IV. CONCLUSIONS OF LAW

A. Jurisdiction

1. The Electrical Utility is an electrical utility as defined in Section 58-31-710(23) of the Code.
2. The City of Bamberg is a municipality formed under Sections XX et seq. of the Code.
3. The City of Georgetown is a municipality formed under Sections XX et seq. of the Code.
4. The Electrical Utility is entitled to file, and the Petition constitutes, a petition for a R&M financing order pursuant to Section 58-31-840(A) of the Code.
5. The Commission has jurisdiction and authority over the Petition, and the authority to approve this financing order pursuant to the Constitution of the State of South Carolina, and Section 56-31-840 of the Code.
6. Notwithstanding any other provision of law exempting any Person from Commission jurisdiction or oversight (including without limitation Sections 33-49-50 and 58-27-1010 of the Code), the Intermediaries and any other Person that is not subject to such jurisdiction or oversight that will become an Intermediary, are subject to the limited jurisdiction of the Commission solely for its consideration, adoption, oversight, and enforcement of this financing order, including but not limited to the imposition and collection of Securitization Charges and use of Securitization Charges, as authorized by Section 58-31-840 of the Code and by this financing order.
7. The Electrical Utility, an Assignee, a Financing Party or other interested party, including the Office of Regulatory Staff may bring an action in State Circuit Court to enforce this financing order or any servicing, sub-servicing, or collection agent agreement, and the Commission may take, and shall take any action that it is obligated to take, under this financing order, as well as any action to enforce this financing orders that it is authorized to take to enforce any of its orders against entities subject to the general jurisdiction of the Commission.

B. Statutory Requirements

8. The Petition was properly filed in compliance with Section 58-31-840(A) of the Code.

9. The City of Bamberg and the City of Georgetown (i.e., the Intermediaries) were properly joined as parties to this proceeding.
10. Each of the Intermediaries duly appointed the Electrical Utility as their attorney-in-fact for this proceeding.
11. This financing order meets the requirements for a financing order under the Act.
12. Pursuant to Section 58-31-840(B)(8), this financing order will remain in full force and effect and unabated notwithstanding the reorganization, bankruptcy or other insolvency proceedings, or merger or sale of the Electrical Utility or any Intermediary, or their respective successors, or assignees.

C. Securitization Costs and Financing Costs

13. The costs authorized for recovery under this financing order, including without limitation, Upfront Securitization Costs and Ongoing Financing Costs, are securitization costs under the Act and are eligible for recovery.
14. The SPE will be an assignee as defined by Section 58-31-710(6) of the Code when securitization property is transferred to the SPE pursuant to Section 58-31-840(E)(3) of the Code.
15. The SPE, the holders of Securitization Bonds, the indenture trustee, and any collateral agent will each be a “financing party” as defined in Section 58-31-710(27) of the Code.

D. Sale of Securitization Property

16. The transfer of the securitization property to the SPE by the Electrical Utility complies with Section 58-31-840(E)(1)(c) of the Code
17. When the Electrical Utility transfers its rights under this financing order (other than the Retained Rights) to the SPE under an agreement that expressly states that the transfer is a sale or other absolute transfer in accordance with the true-sale provisions of Section 58-31-840(E)(3) of the Code, then, pursuant to that statutory provision, that transfer shall be a true sale of an interest in securitization property and not a security interest in the transferor’s right, title, and interest in, to, and under the securitization property. As provided by Section 58-31-840(E)(3) of the Code, this true sale shall apply regardless of

whether, and without limitation, the purchaser has any recourse against the seller, or any other term of the parties' agreement, including the seller's retention of a partial or residual interest in the securitization property, the Electrical Utility's role as the collector of securitization charges relating to the securitization property, or the treatment of the transfer as a financing for tax, financial reporting, or other purposes.

18. As provided in Section 58-31-840(E)(3)(e) of the Code, the priority of a sale of securitization property under the Act is not impaired by any later modification of the financing order or securitization property or by the commingling of funds arising from securitization property with other funds. Further, securitization property that has been transferred to an assignee or financing party, and any proceeds of that property, will be held for and delivered to the assignee or financing party by the Electrical Utility or any other servicer or Intermediary as a fiduciary.

E. Securitization Bonds

19. The SPE may issue bonds in accordance with this financing order.
20. The securitization bonds issued pursuant to this Financing order will be "securitization bonds" within the meaning of Section 58-31-710(48) of the Code, and the securitization bonds and holders thereof will be entitled to all of the protections provided under the Act.
21. As provided in Section 58-31-840(E)(1)(d) of the Code, if the Electrical Utility and Intermediary or servicer defaults on any required payment of charges arising from securitization property specified in a financing order, a court, upon application by an Assignee or financing party, or upon application of this Commission, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the securitization property to the financing parties or their representatives. Any such order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the Electrical Utility or an Intermediary or other servicer, or their respective successors or assignees.
22. As provided in Section 58-31-840(K), securitization bonds are not a debt or a general obligation of the state or any of its political subdivisions, agencies, or instrumentalities.

An issue of securitization bonds does not, directly or indirectly or contingently, obligate the state or any agency, political subdivision, or instrumentality of the state to levy any tax or make any appropriation for payment of the bonds, other than for paying securitization charges in their capacity as R&M customers.

23. As provided in Section 58-31-840(D)(4), the securitization bonds are not a debt or a liability of any Intermediary.

F. Securitization Property

24. The securitization property created by this financing order is “securitization property” within the meaning of Section 58-31-710(52) of the Code. As provided in Section 58-31-710(52)(E)(1) of the Code, the securitization property created by this financing order shall constitute an existing, present contract property right, notwithstanding that the value of the property and the imposition and collection of securitization charges depends on future acts such as the Electrical Utility or any Intermediary performing its servicing functions relating to the collection of securitization charges and on future electricity consumption. Such property shall exist whether or not the revenues or proceeds arising from the property have been billed, have accrued, or have been collected and notwithstanding the fact that the value or amount of the property is or may be dependent on the future provision of service to R&M customers.
25. As provided in Section 58-31-840(F) of the Code, the description of this securitization property in any contract is only sufficient if such description refers to this financing order and such contract states that it covers all or part of the securitization property described in this financing order.
26. The rights and interests of the Electrical Utility or its successor, transferred to the SPE in the Securitization Property Sale Agreement and the related Bill of Sale, including the right to impose, bill, and collect securitization charges is securitization property.
27. As provided in Section 58-31-840(E)(1)(e) of the Code, the interest of an Assignee or secured party in securitization property is not subject to setoff, counterclaim, surcharge, or defense by the Electrical Utility or any other person or in connection with the

reorganization, bankruptcy or other insolvency of the Electrical Utility, any Intermediary, any R&M Customer, or any other entity.

G. Securitization Charges

28. Amounts that are required to be paid to the servicer or any Intermediary as securitization charges under this financing order are “securitization charges” as defined in Section 58-31-710(50) of the Code, whether or not such charges are set out as a separate line item on the customer’s bill. When customers pay the securitization charges, they are paying for the use of electric service. The securitization charges under this financing order are irrevocable, binding and non-bypassable charges.
29. Any payment of securitization charges by a customer to the Electrical Utility, or any Intermediary, or to another entity responsible for collecting securitization charges from customers under this financing order will discharge the R&M customer’s obligations in respect of that payment.
30. Pursuant to Section 58-31-840(D)(1) of the Code, in the event of a R&M Customer partial payment and with regard to that Customer’s account, the Electric Utility or Intermediary shall allocate all Customer revenue pro-rata between the Securitization Charge and the remaining Customer charges owed to the Electric Utility or Intermediary, as applicable; provided nothing in this financing order shall prevent the Electrical Utility from agreeing to apply all revenue received from the Intermediaries first to the payment of Securitization Charges due and owing and then to other wholesale customer charges.
31. The Electrical Utility, as servicer, and each Intermediary will collect the securitization charges associated with the securitization property only for the benefit of the holders of the Securitization Bonds in accordance with the Servicing Documents.

H. Security Interest in Securitization Property; Statutory Lien

32. Pursuant to Section 58-31-840(E)(2) of the Code, the securitization property may be encumbered by a security interest to secure securitization bonds issued pursuant to this financing order.

33. As provided in Section 58-31-840(E)(2)(c) of the Code, a valid and enforceable security interest in favor of the bondholders or a trustee on their behalf attaches after: (1) this financing order is issued, (2) a security agreement with a financing party in connection with the issuance of securitization bonds is executed and delivered, and (3) value for the securitization bonds is received.
34. As provided in Section 58-31-840(E)(2)(d) of the Code, a security interest in securitization property is perfected only if it has attached and a financing statement indicating the securitization property collateral covered thereby has been filed in accordance with the South Carolina Uniform Commercial Code. The filing of such a financing statement shall be the only method of perfecting a lien or security interest on securitization property.
35. Under Section 58-31-840(E)(2)(e) of the Code, the priority of a security interest perfected under the Act is not defeated or impaired by any later modification of the financing order or securitization property or by the commingling of funds arising from securitization property with other funds.
36. Pursuant to Section 58-31-840(H) of the Code, there shall exist a statutory lien on the Securitization Property. Upon the effective date of this financing order (or if later, the date of issuance of the Securitization Bonds), there shall exist a first priority statutory lien on all securitization property, then existing or, thereafter arising, to secure the payment of the Securitization Bonds. This lien shall arise pursuant to law automatically without any action on the part of the Commission, an Electrical Utility, any Intermediary or other Financing Party. This lien shall secure the payment of all Securitization Costs, including all Ongoing Securitization Costs, then existing or subsequently arising, to the holders of the Securitization Bonds, the trustee or representative for the holders of the Securitization Bonds, and any other entity specified in the financing order or the documents relating to the Securitization Bonds. This lien shall attach to the Securitization Property regardless of who shall own, or shall subsequently be determined to own, the Securitization Property. This lien shall be valid and enforceable against the owner of the Securitization Property and all third parties upon effectiveness of this financing order without any further public notice. The statutory lien is a continuously

perfected lien on all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Securitization Property shall constitute property for all purposes, including for contracts securing Securitization Bonds, whether or not the revenue or proceeds arising with respect thereto have accrued.

I. True-Up of Securitization Charges

37. The methodology approved in this financing order to allocate the Securitization Costs satisfies the Act.
38. The true-up procedures described in this financing order to calculate and adjust the securitization charge, including the forms of True-Up Notices attached as Appendix D, are an Adjustment Mechanism consistent with the Act.
39. The true-up mechanism, and all other obligations of the State of South Carolina and the Commission set forth in this financing order, are direct, explicit, irrevocable and unconditional upon issuance of the Securitization Bonds and are legally enforceable against the State of South Carolina and the Commission.

J. Irrevocability and State and Commission Pledges

40. Pursuant to Section 58-31-840(e) of the Code, the State pledges to and agrees with Securitization Bondholders, the owners of the Securitization Property, other Financing Parties, the Electrical Utility and NextEra Energy, Inc. that the State will not:
 - (a) alter the provisions of Section 58-31-840 that make the Securitization Charges imposed by this financing order irrevocable, binding and Non-bypassable charges;
 - (b) take or permit any action that impairs or would impair the value of securitization property; or
 - (c) except as allowed under Section 58-31-840, reduce, alter, or impair Securitization Charges that are to be imposed, collected and remitted for the benefit of the Securitization Bondholders and other Financing Parties until any and all Securitization Bonds and Ongoing Securitization Costs,

including, any contracts to be performed, in connection with the Securitization Bonds, have been paid and performed in full.

[This] pledge ... confers a property right on each Electrical Utility, any Intermediary, the Assignee, any Financing Party, and the holders of Securitization Bonds.

Nothing in sub-section (J)(1) of Section 58-31-840 of the Code shall preclude limitation or alteration if adequate provisions are made by law for the protection of the Securitization Charges collected pursuant to this financing order and of the holders of Securitization Bonds and the Assignee or any Financing Party entering into a contract with an Electrical Utility.

41. Any Assignee, including the SPE, may include the foregoing pledge specified in the Securitization Bonds and related documentation.
42. Pursuant to Section 58-31-840 (A)(4), this financing order is irrevocable and, except in connection with a refunding or refinancing as provided in sub-section (B)(4) and to implement any true-up adjustment as provided in sub-section (B)(8) of Section 58-31-840, the Commission may not amend, modify or terminate this financing order by any subsequent action or reduce, impair, postpone, terminate or otherwise adjust Securitization Charges approved in the financing order; provided that nothing shall preclude limitation or alteration if and when full compensation is made for the full protection of the securitization charges collected pursuant to this financing order and the full protection of the Securitization Bondholders and any Assignee or Financing Party.
43. Upon issuance of this financing order, the SPE has the continuing irrevocable right to cause the issuance of Securitization Bonds, at the request of the Electrical Utility, in accordance with this financing order.
44. All regulatory approvals within the jurisdiction of the Commission that are necessary for transactions contemplated in the financing order, have been granted.

V. ORDERING PARAGRAPHS

Based upon the record, the Findings of Fact and Conclusions of Law set forth herein, and for the reasons stated above, this Commission orders:

A. Approval

1. **Approval of Securitization Petition.** The Petition for the issuance of a financing order under the Act is approved.
2. **Authority to Finance and Issue Securitization Bonds.** The Electrical Utility is authorized to securitize and to cause the issuance of Securitization Bonds with an aggregate principal amount equal to the sum of the sum of: (a) \$xxx million of Securitization Costs to fund the payment of Securitization Activities, plus (b) the actual amount of Upfront Securitization Costs, which are estimated to be \$xx million, plus (c) the cost of any Credit Enhancements and other mechanisms designed to promote the credit quality and marketability of the securitization bonds which are described in the Issuance Advice Letter.
3. **Authority to Adjust for and Recover Upfront Securitization Costs.** The Electrical Utility may adjust for the amount of actual Upfront Securitization Costs by filing with the Commission, within 90 days of the issuance of the Securitization Bonds, a final accounting of its Upfront Securitization Costs as described in Finding of Fact 15.
4. **Recovery of Securitization Charges.** The Electrical Utility shall impose and collect, or cause to be imposed and collected, and the Intermediaries will cause to be imposed and collected, the securitization charges on all R&M Customers, even if the customer elects to purchase electricity from an alternative supplier including as a result of a fundamental change in the manner of regulation of public utilities in South Carolina. In the event that there is a fundamental change in the manner of regulation of public utilities, and parties other than the servicer are authorized to bill and collect the securitization charges, the securitization charges shall be billed, collected and remitted to the servicer or an Intermediary in a manner that will not cause any of the then current credit ratings of the securitization bonds to be suspended, withdrawn or downgraded.

5. **Recovery Period for Securitization Charges.** The securitization charges shall become effective on the date specified in the Issuance Advice Letter and thereafter shall be imposed and collected until the Securitization Bonds and all Ongoing Securitization Costs have been paid in full (which period of imposition and collection if necessary may extend beyond the legal final maturity dates of the Securitization Bonds).
6. **Issuance Advice Letter.** Following the determination of the final terms and structure of the Securitization Bonds, the Electrical Utility will file with the Commission Clerk, at least two business days prior to the issuance of the Securitization Bonds, an Issuance Advice Letter in substantially the form attached as Appendix A to this financing order. The Issuance Advice Letter will be an informational filing only and will include the estimated Upfront Securitization Costs, the estimated Ongoing Securitization Costs for the first year following issuance, a calculation of the initial securitization charge and its effective date, as well as a description of the final terms of the bonds, including principal amount, interest rates, redemption provisions and other details, including Credit Enhancements used in connection with the bonds. Upon filing of the Issuance Advice Letter with the Commission Clerk, the Electrical Utility is irrevocably authorized to proceed with the issuance of the Securitization Bonds. The Commission Clerk will provide acknowledgement of receipt of the Issuance Advice Letter at the request of the Electrical Utility.
7. **Approval of Initial Securitization Charges.** The initial securitization charges, as set forth in the Issuance Advice Letter, shall be billed beginning on the first day of the billing cycle of the Electric Utility or Intermediary (as applicable) following the date of issuance of the Securitization Bonds, as set forth in the Issuance Advice Letter.
8. **Creation of Securitization Property.** Securitization Property will arise and be created in the Electrical Utility simultaneous with the sale or other transfer of the securitization property to the Assignee and the pledge of the securitization property to secure Securitization Bonds. The securitization property includes, without limitation, the irrevocable right to impose, bill, charge, collect, and receive the securitization charges authorized by this financing order and to obtain periodic adjustments to such charges as provided in this financing order, but excludes the Electrical Utility Retained Rights.

B. Securitization Charges

9. **Imposition and Collection.** The Electrical Utility is authorized to impose on, and the Servicer and Intermediaries are authorized and required to collect from, all R&M Customers securitization charges in an amount sufficient at all times to provide for the recovery of the aggregate Periodic Payment Requirements (including payment of scheduled principal and interest on the Securitization Bonds), as approved in this financing order. The initial Securitization Charge shall be as set forth in the Issuance Advice Letter. Thereafter, the amount of such securitization charges shall be periodically corrected or “trued-up,” as required or permitted by this financing order. The securitization charges shall be imposed and collected until all Securitization Bonds and all Ongoing Securitization Costs have been paid in full.
10. **Calculation and Adjustment of Securitization Charge.** The securitization charge shall be calculated and adjusted semi-annually, quarterly and more frequently as described in this financing order, on each adjustment date using the methodology as detailed in Appendix B and in Findings of Facts 60 through 65. True-up letter notice filings shall be made substantially in the form of Appendix D hereto. The Commission covenants and agrees that it will act to ensure that the Adjustment Mechanism is used in order to ensure the projected recovery of amounts sufficient to provide timely payment of the Securitization Bonds and all Ongoing Securitization Costs. No error by the Servicer, or any Intermediary, or the failure of any party to receive notice of such true-up (other than the [Clerk] of the Commission), shall affect the validity of any true-up adjustment.
11. **Bondholder’s Rights and Remedies.** Upon the transfer by the Electrical Utility of the securitization property to the SPE and the SPE’s pledge of such property to the indenture trustee, the bondholders shall have as collateral all of the rights of the Electrical Utility with respect to such securitization property pledged under such documents, including, without limitation, the right to exercise any and all rights and remedies with respect thereto, including the right, subject to the terms of the Servicing Documents, to assess and collect any amounts payable by any customer in respect of the securitization property.

12. **Non-bypassability.** The Electrical Utility and any Intermediary or other entity providing electric transmission or distribution services to R&M Customers are required to collect and must remit, consistent with this financing order, the securitization charges from all such Customers, regardless of whether the Customer purchases its electricity from an alternative electricity provider and regardless of who generates that electricity. R&M Customers who self-generate their electricity must pay the Securitization Charges to the extent that such energy, or supplemental energy or emergency back-up power, is transmitted through use of an Electrical Utility's or Intermediary's transmission or delivery system, all as described in Findings of Fact 52 and 56.
13. **Remittances.** The securitization charges shall be remitted by to the indenture trustee as described in this financing order.
14. **Partial Payments.** If any customer does not pay the full amount of any bill, the Electrical Utility or Intermediary will allocate all Customer revenue pro-rata between the Securitization Charge and the remaining Customer charges. Notwithstanding the foregoing, the Electric Utility is authorized to apply all revenue received from the Intermediaries first to the payment of Securitization Charges due and owing and then to other wholesale charges. If this procedure results in temporary advances being made to the SPE of Electrical Utility revenue, the Electrical Utility is permitted to recover a return on such advances as set forth in the Servicing Contracts.
15. **No Setoff.** As provided in Section 58-31-840(E)(1)(e) of the Code, the interest of the SPE or another assignee or a secured party in securitization property shall not be subject to setoff, counterclaim, surcharge, or defense by the Electrical Utility, any Intermediary or any other person or in connection with the reorganization, bankruptcy or other insolvency of the Electrical Utility, any Intermediary, or any other entity.
16. **Ownership Notification.** The Electrical Utility and each Intermediary will include in its customer bills, at least semi-annually, through an insert or otherwise, a statement to the effect the SPE is the owner of the rights to R&M securitization charges collected as part of its billing process, and the Electrical Utility or Intermediary, as applicable, is a collection agent or servicer for the SPE. Any failure of the Electrical Utility or any Intermediary to comply with this paragraph shall not invalidate, impair, or affect this

financing order, or any securitization property, securitization charge, or securitization bonds.

C. Securitization Bonds

17. **Issuance.** The SPE is authorized to issue the Securitization Bonds as specified in this financing order.
18. **Sale of Securitization Property.** The Electrical Utility is authorized to transfer the securitization property to the SPE in accordance with Section 58-31-840(E)(1)(c) of the Code.
19. **Final Principal Amount; Terms of the Bonds.** The final principal amount of the securitization bonds shall be an amount set forth in the Issuance Advice Letter. The scheduled final maturity, legal final maturity, amortization, interest rates, redemption provisions (if any), Credit Enhancements (as authorized by Ordering Paragraph 28), and other details of the Bonds, as determined by the Electrical Utility in accordance with this financing order, shall also be described in the Issuance Advice Letter. The Electrical Utility is authorized to cause the bonds to be offered and sold in such manner, whether through a SEC-registered sale, Rule 144A offering or private sale, or otherwise, as it deems appropriate.
20. **Ongoing Financing Costs.** The actual Ongoing Financing Costs shall be recovered on a current basis through the securitization charges and the Adjustment Mechanism. The estimated Ongoing Financing Costs for the first year following issuance of the Securitization Bonds will be set forth in the Issuance Advice Letter.
21. **Transaction Structure.** The transaction structure as described in this financing order is approved. The forms of documents submitted with the Petition are approved for use in the transaction, subject to such changes as required in the sole discretion of the Electrical Utility to address rating, credit, marketing issues and the final terms of the bonds not inconsistent with this financing order.
22. **Not an Obligation of the State.** The Securitization Bonds must contain on their face pursuant to Section 58-31-840(K) the following statement: “Neither the full faith and

credit nor the taxing power of the State of South Carolina is pledged to the payment of the principal of, or interest on, this bond.”

23. **Refinancing.** The Electrical Utility may apply for a subsequent financing order to refund securitization bonds issued under this financing order pursuant to Section 58-31-840(B)(6) of the Code.
24. **Collateral.** All securitization property and other collateral shall be held in pledge and administered by the indenture trustee pursuant to the Indenture. The SPE shall establish a collection account with the indenture trustee as described in the Findings of Fact 50 and 51.
25. **Distribution Following Repayment.** Upon payment in full of Securitization Bonds and the discharge of all obligations in respect thereof, all amounts in the collection account, including investment earnings, shall be released by the indenture trustee to the SPE for distribution to as directed by this Commission. The Electrical Utility shall notify the Commission within 30 days after the date that these funds are eligible to be released of the amount of such funds available for crediting to the benefit of R&M Customers, and such amount shall be credited to the customers in the manner to be prescribed then by the Commission.
26. **Use and Capitalization of the SPE.** The Electrical Utility shall use the SPE, a special purpose securitization funding entity, in conjunction with the issuance of the Securitization Bonds. The SPE shall be formed and capitalized at a level determined by the Electrical Utility as described in Findings of Fact 19 and 20.
27. **Funding of Capital Subaccount; Return to Electrical Utility.** The capital investment by the Electrical Utility in the SPE to be deposited into the capital subaccount shall be funded by the Electrical Utility and not from the proceeds of the sale of securitization bonds. Upon payment of the principal amount of all securitization bonds and the discharge of all obligations in respect thereof, all amounts in the capital subaccount (including investment earnings thereon) shall be released to the SPE for payment to the Electrical Utility. The Electrical Utility may earn a rate of return on its capital investment in the SPE equal to the rate of interest payable on the longest maturity tranche

of the securitization bonds (i.e., the Capital Return Rate), to be paid from securitization charges as an Ongoing Securitization Cost.

28. **Credit Enhancement.** The Electrical Utility in its discretion may provide for various forms of Credit Enhancement including hedging arrangements, letters of credit, an overcollateralization subaccount or other reserve accounts, and surety bonds, and other mechanisms designed to promote the credit quality or marketability of the securitization bonds. The Credit Enhancement shall be described in the Issuance Advice Letter, and any costs, whether in the form of increased Upfront or Ongoing Securitization Costs, shall be recoverable from bond proceeds or securitization charges so long as the Electrical Utility states in the Issuance Advice Letter that it believes that the benefits of the Credit Enhancement are expected to outweigh the costs. The Electrical Utility shall be entitled to rely upon the advice of its financial advisor or investment banker in making such determination, which shall be irrefutable. This financing ordering Paragraph does not apply to the collection account or its subaccounts (other than the overcollateralization subaccount) approved in this financing order.

D. Servicing Arrangements

29. **Servicing Arrangements.** The Servicing arrangements described in Findings of Fact 33 through 43 are reasonable, consistent with the Act and are hereby approved.

E. Use of Proceeds

30. **Use of Proceeds.** The use of Bond proceeds as described in Finding of Fact 67 is consistent with the Act and the Asset Purchase Agreement and is hereby approved.

F. Commission Pledge

31. **Irrevocable.** After the earlier of the transfer of the securitization property to an assignee or issuance of the securitization bonds authorized by this financing order, this financing order is irrevocable until the indefeasible payment in full of such bonds and the related financing costs. The Commission covenants, pledges and agrees it thereafter shall not amend, modify, or terminate this financing order by any subsequent action, or reduce, impair, postpone, terminate, or otherwise adjust the securitization charges approved in

this financing order, or in any way reduce or impair the value of the securitization property created by this financing order, except as may be contemplated by a refinancing authorized under the Act or the periodic true-up adjustments authorized by this financing order, until the indefeasible payment in full of the Securitization Bonds and the Ongoing Securitization Costs. The Commission further pledges that it will enforce the obligations imposed by this financing order and the Servicing Documents upon the Electrical Utility and all Intermediaries to ensure the timely and full repayment of the Securitization Bonds and Ongoing Securitization Costs, as required by Section 58-31-840(C)(1) of the Code.

32. **Duration.** This financing order and the charges authorized hereby shall remain in effect until the Securitization Bonds and all Ongoing Securitization Costs have been indefeasibly paid or recovered in full. This financing order shall remain in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings of the Electrical Utility or any Intermediary or their respective successors or assignees. Any successor to the Electrical Utility, or any successor to any Intermediary whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under this financing order as, the Electrical Utility or the Intermediary in the same manner and to the same extent as the Electrical Utility or the Intermediary, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the securitization property.
33. **Contract.** The Commission acknowledges that the securitization bonds approved by this financing order will be issued and purchased in express reliance upon this financing order and the Commission's covenant and pledge herein of irrevocability and the vested contract right created hereby. The provisions of this financing order shall create a contractual obligation of irrevocability by the Commission in favor of the owners from time to time of the Securitization Bonds, and any such bondholders may by suit or other proceedings enforce and compel the performance of this financing order against the Commission. It is expressly provided that such remedy as to individual [Commission members] is strictly limited to a claim solely for prospective relief of declaratory and

injunctive relief only; there shall be no other cause or right of action for damages or otherwise against the individual [Commission members]. The purchase of the bonds, which reference in their related documentation the covenant and pledge provided in this financing order, is acknowledged by the Commission to be adequate consideration by the owners of the bonds for the Commission's covenant of irrevocability contained in this financing order. The Commission acknowledges that it would be unreasonable, arbitrary and capricious for the Commission to take any action contrary to the covenant and pledge set forth in this financing order after the issuance of the securitization bonds. The Commission further acknowledges that any future actions it undertakes pursuant to the financing order are ministerial in nature.

34. **Full Compensation.** Nothing in this financing order shall preclude limitation or alteration of this financing order if and when full compensation is made for the full protection of the securitization charges approved pursuant to this financing order and the full protection of the holders of Securitization Bonds and any Assignee or Financing Party.
35. **Inclusion of Pledges.** The SPE, as issuer of the securitization bonds, is authorized, pursuant to Section 58-31-840(J) of the Act and this financing order to include the State of South Carolina pledge contained in Section 58-31-840(J) in the bonds and related bond documentation. The financing order is subject to the State pledge.

G. Miscellaneous Provisions

36. **Continuing Issuance Right.** The SPE has the continuing irrevocable right to cause the issuance of Securitization Bonds at the request of Electrical Utility in accordance with this financing order. There is no time limit to such authorization or right.
37. **Internal Revenue Service Private Letter or Other Rulings.** The Electrical Utility is not required by this financing order to obtain a ruling from the IRS. The Electrical Utility shall obtain an opinion of tax counsel to support its determination of the appropriate funding level for the SPE in accordance with Findings of Fact 19 and 20.
38. **Binding on Successors.** This financing order, together with the securitization charges authorized in it, shall be binding on the Electrical Utility and each Intermediary, and any

successor to the Electrical Utility or any Intermediary that provides electric transmission or distribution service, directly or indirectly, to R&M customers, including their respective successors. This financing order is also binding on any other entity responsible for billing and collecting securitization charges on behalf of the SPE and on any successor to the Commission. Any such successor shall perform and satisfy all obligations of, and have the same rights under this financing order as, the Electrical Utility, including collecting and paying to the person entitled to receive them the revenues, collections, payments, or proceeds of the securitization property created by this financing order. In this paragraph, a “successor” means any entity that succeeds by any means whatsoever to any interest or obligation of its predecessor or transferor, including by way of bankruptcy, reorganization or other insolvency proceeding, merger, acquisition, division, consolidation or other business combination, conversion, assignment, sale, transfer, lease, management contract, pledge or other security, by operation of law, as a result of electric utility restructuring or otherwise.

39. **Flexibility.** Pursuant to Section 58-31-840(B)(2)(h) of the Code, the Electrical Utility shall be afforded flexibility, consistent with this financing order, in establishing the final principal amount of the Securitization Bonds, the final terms and conditions of the Securitization Bonds, the final Upfront Securitization Costs, the use of Credit Enhancements and the manner by which the Securitization Bonds will be offered and sold, as described in Findings of Facts 12, 26, 27, 43 and 44 and elsewhere in this financing order.
40. **Statutory Lien; Sequestration.** In the event of default in payment of revenues arising with respect to the Securitization Property, the trustee, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the Securitization Property.
41. **Choice of Law.** The law governing the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any Securitization Property shall be the laws of the State, and exclusively, the provisions of Section 58-31-840.

42. **Regulatory Approvals.** All regulatory approvals within the jurisdiction of the Commission that are necessary for the transactions contemplated in the Securitization Application are granted.
43. **Effect.** This Financing order constitutes a legal financing order for the Electrical Utility under the Act. The Commission finds this financing order complies with the provisions of the Act. A financing order gives rise to rights, interests, obligations and duties as expressed in the Act. It is the Commission's express intent to give rise to those rights, interests, obligations and duties by issuing this financing order. The Electrical Utility is irrevocably authorized to take all actions as are required to effectuate the transactions approved in this financing order. This financing order is effective upon issuance and acceptance of its terms by the Electrical Utility.
44. **Further Commission Action.** The Commission will act pursuant to this financing order as expressly authorized by the Act to ensure that expected securitization charge revenues are sufficient to pay at all times the scheduled principal of and interest on the Securitization Bonds issued pursuant to this financing order and all other Ongoing Securitization Costs in connection with the Securitization Bonds.
45. **All Other Motions, etc., Denied.** All motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief not expressly granted herein, are denied for want of merit.
46. **Limited Jurisdiction.** Pursuant to Section 51-38-840(C)(1), the Commission disclaims any jurisdiction over the Intermediaries except for the purpose of consideration, adoption, oversight and enforcement of this financing order, as further provided in this financing order.

BY ORDER OF THE COMMISSION

Chairman

Vice Chairman

SEAL

DRAFT

Appendix A
Form of Issuance Advice Letter

FORM OF ISSUANCE ADVICE LETTER

_____ day, _____,

South Carolina Office of Regulatory Staff

[Address]

SUBJECT: ISSUANCE ADVICE LETTER FOR SECURITIZATION BONDS

Pursuant to the Financing Order adopted on the _____ day of _____, 2020 in Re: The financing of the sale of certain assets of South Carolina Public Service Authority to NextEra Energy, Inc. through the issuance of securitization bonds pursuant to act no. xx (R&M financing order) (the “**Financing Order**”), [Name of Electrical Utility] (“**Electrical Utility**”) hereby submits, not later than two business days prior to the issuance of the Securitization Bonds, the information referenced below. This Issuance Advice Letter is for the [name of SPE]] Securitization Bonds, tranches _____. Any capitalized terms not defined in this letter shall have the meanings ascribed to them in the Financing Order or Act No. [the Act] .

This filing will confirm to you the following:

- (1) the final principal amount of the bonds;
- (2) the terms, structure and pricing of the bonds;
- (3) confirmation that the terms of the bonds is consistent with the terms of the Financing Order;
- (4) a description of the manner of sale of the bonds;
- (5) a description of any Credit Enhancement used in connection with the issuance of the bonds;
- (6) an estimate of the Upfront Securitization Costs for the bonds;
- (7) an estimate of the Ongoing Securitization Costs for the bonds for the first year following issuance; and
- (8) the initial Securitization Charge.

Applicant hereby confirms to you're the following terms of the bonds:

Securitization Bond Series: _____
 Securitization Bond Issuer (Assignee): **[name of SPE]**
 Trustee:
 Closing Date: _____, 20____
 Bond Ratings: [_____]____
 Principal Amount Issued: \$ _____ (See Attachment 1, Schedule A)
 Estimated Upfront Securitization Costs: See Attachment 1, Schedule B.
 Estimated Ongoing Securitization Costs: See Attachment 2, Schedule B.

Tranche	Coupon Rate	Scheduled Final Maturity Date	Legal Final Maturity
A-1	_____ %	____/____/____	____/____/____
A-2	_____ %	____/____/____	____/____/____
A-3	_____ %	____/____/____	____/____/____

	_____ %
Weighted Average Life of Series:	_____ years
Call provisions (including premium, if any):	
Amortization Schedule:	Attachment 2, Schedule A
Scheduled Final Maturity Dates:	Attachment 2, Schedule A
Legal Final Maturity Dates:	See Table Above
Payment Dates:	Semiannually Beginning _____, 2011
Redemption Provisions	
Weighted Average Coupon Rate:	_____
Annualized Weighted Average Yield:	_____

Attachment 3 shows the calculation for the initial securitization charge(s).

In accordance with the Financing Order, the securitization charge shall be billed [in each service area] beginning on XX, XXXX *i.e.*, the first day of the first billing cycle of the next revenue month following the date of issuance of the Securitization Bonds.

The undersigned is an officer of Electrical Utility and authorized to deliver this Issuance Advice Letter on behalf of the Electrical Utility.

Respectfully submitted, [Electrical Utility]

By: _____
Name: _____
Title: _____
Date: _____

DRAFT

ATTACHMENT 1
SCHEDULE A
CALCULATION OF SECURITIZATION COSTS TO BE FINANCED WITH
PROCEEDS OF BONDS

A.	Securitization Activity Costs	\$
B.	Estimated Upfront Securitization Costs (excluding Credit Enhancement)	
C.	Estimated Upfront Securitization Costs: Credit Enhancements (See Attachment 3 for Certification)	
	(See Attachment 1, Schedule B)	
TOTAL PRINCIPAL AMOUNT OF THE BONDS		\$

DRAFT

ATTACHMENT 1
SCHEDULE B
ESTIMATED UP-FRONT SECURITIZATION COSTS

Underwriters' Fees & Expenses	\$	_____
Electrical Utility's/SPE's/Intermediaries' Counsel and Underwriters' Counsel Legal Fees & Expenses	\$	_____
Rating Agency Fees	\$	_____
Electrical Utility's Financial Advisor Fees & Expenses	\$	_____
Printing/Edgarizing Expenses	\$	_____
SEC Registration Fee	\$	_____
Electrical Utility's Non-legal Securitization Proceeding Costs & Expenses	\$	_____
Electrical Utility's Miscellaneous Administrative Costs	\$	_____
Servicer's Set-Up Costs/Subservicer Set-Up Costs	\$	_____
Accountant's Fees	\$	_____
Trustee's/Trustee Counsel's Fees & Expenses	\$	_____
SPE Set-Up Costs	\$	_____
Original Issue Discount	\$	_____
Other Credit Enhancements (Overcollateralization Subaccount)	\$	_____
Rounding/Contingency		
TOTAL ESTIMATED UP-FRONT SECURITIZATION COSTS	\$	_____

ATTACHMENT 2
SCHEDULE A
SECURITIZATION BOND REVENUE REQUIREMENT INFORMATION

SERIES _____, TRANCHE _____				
Payment Date	Principal Balance	Interest	Principal	Total Payment
	\$	\$	\$	\$

SERIES _____, TRANCHE _____				
Payment Date	Principal Balance	Interest	Principal	Total Payment
	\$	\$	\$	\$

SERIES _____, TRANCHE _____				
Payment Date	Principal Balance	Interest	Principal	Total Payment
	\$	\$	\$	\$

ATTACHMENT 2
SCHEDULE B
ESTIMATED ONGOING SECURITIZATION COSTS

	ANNUAL AMOUNT
Ongoing Servicer Fees (Electrical Utility as Servicer)	\$ _____
	\$ _____
Sub-servicer Fees (Intermediaries as sub-servicers)	\$ _____
Accounting Costs (External)	\$ _____
Administration Fees	\$ _____
Legal Fees/Expenses for Electrical Utility's/SPE's Counsel	\$ _____
Trustee's/Trustee's Counsel Fees & Expenses	\$ _____
Independent Manager's Fees	\$ _____
Rating Agency Fees	\$ _____
Miscellaneous	\$ _____
Other Credit Enhancements	\$ _____
TOTAL ESTIMATED ANNUAL ONGOING SECURITIZATION COSTS	\$ _____

Note: The amounts shown for each category of ongoing securitization cost on this attachment are the expected expenses for the first year of the securitization bonds. Securitization charges will be adjusted at least semi-annually to reflect the actual Ongoing Securitization Costs through the true-up process described in the Financing Order.

ATTACHMENT 3
ELECTRICAL UTILITY CERTIFICATION FOR ANY CREDIT ENHANCEMENT

[TO COME]

DRAFT

Appendix B
Allocation Methodology and Adjustment Mechanism for Securitization Charge

1. Responsibility for the payment of debt service on the Securitization Bonds and other Ongoing Securitization Costs comprising the Periodic Payment Requirement (PPR) will be shared equally by all R&M Customers, regardless of their location (i.e. regardless of their service area), based upon their electric (kWh) consumption.
2. The Periodic Billing Requirement (PBR) for any payment period (i.e., [six months]), which will represent the aggregate dollar amount of securitization charges that must be billed during the payment period so that the Securitization Charge collections will be sufficient to meet the PPR for that period, will be calculated based upon information provided by the Electrical Utility and, to the extent applicable, each Intermediary to the Servicer, including (i) forecast usage data for the period; (ii) forecast uncollectables for the period; (iii) forecast lags in collection of billed securitization charges for the period; and (iv) projected collections of securitization charges pending the implementation of the true-up adjustment.
3. On each true-up adjustment date, the Servicer will calculate the Securitization Charge for each payment period by

First: calculating the PBR for the first and the first two payment periods following the proposed adjustment date; and

Second, dividing the projected kWh sales in such period or periods by the PBR for such period or periods.
4. The calculation which yields the greater Securitization Charge (\$/kWh) will be the Securitization Charge for the next payment period and thereafter until adjusted pursuant to the Adjustment Mechanism.
5. The Securitization Charge will be adjusted with the frequency set forth in the financing order.

Appendix C
Estimated Upfront and Ongoing Securitization Costs

DRAFT

ATTACHMENT C-1
ESTIMATED UP-FRONT FINANCING COSTS

Underwriters' Fees & Expenses	\$ _____
Electrical Utility's/SPE's Counsel and Underwriters' Counsel Legal Fees & Expenses	\$ _____
Rating Agency Fees	\$ _____
Electrical Utility's Financial Advisor Fees & Expenses	\$ _____
Printing/Edgarizing Expenses	\$ _____
SEC Registration Fee	\$ _____
Electrical Utility's Non-legal Securitization Proceeding Costs & Expenses	\$ _____
Electrical Utility's Miscellaneous Administrative Costs	\$ _____
Servicer's Set-Up Costs	\$ _____
Accountant's Fees	\$ _____
Trustee's/Trustee Counsel's Fees & Expenses	\$ _____
SPE Set-Up Costs	\$ _____
Original Issue Discount	\$ _____
Other Credit Enhancements (Overcollateralization Subaccount)	\$ _____
Rounding/Contingency	
TOTAL ESTIMATED UP-FRONT SECURITIZATION COSTS	\$ _____

ATTACHMENT C-2

ESTIMATED ONGOING SECURITIZATION COSTS

	ANNUAL AMOUNT
Ongoing Servicer Fees (Electrical Utility as Servicer)	\$ _____
Sub-servicer Fees (Intermediaries as sub-servicer)	\$ _____
Accounting Costs (External)	\$ _____
Administration Fees	\$ _____
Legal Fees/Expenses for Electrical Utility's/SPE's Counsel	\$ _____
Trustee's/Trustee's Counsel Fees & Expenses	\$ _____
Independent Manager's Fees	\$ _____
Rating Agency Fees	\$ _____
Miscellaneous	\$ _____
Other Credit Enhancements	\$ _____
TOTAL ESTIMATED ANNUAL ONGOING SECURITIZATION COSTS	\$ _____

Note: The amounts shown for each category of ongoing securitization cost on this attachment are the expected expenses for the first year of the securitization bonds. Securitization charges will be adjusted at least semi-annually to reflect the actual Ongoing Securitization Costs through the true-up process described in the Financing Order.

Appendix D
Form of True-Up Notice Letter for Securitization Charge

[Electrical Utility Letterhead]

Date: _____, 20xx

Commission

Office of Regulatory Staff
[Address]

Re: **DOCKET NO. 2020- – ORDER NO. 2020-**

**Petition for the issuance of a financing order in connection with the financing of the sale of certain electric assets of South Carolina Public Service Authority to NextEra Energy, Inc. through the issuance of securitization bonds pursuant to Act no. xx
(R&M financing order)**

Dear _____:

Pursuant to the Financing Order adopted on the _____ day of _____, 2020 in response to the Petition for the issuance of a R&M financing order in connection with the financing of the sale of certain electric assets of South Carolina Public Service Authority to NextEra Energy, Inc. through the issuance of securitization bonds pursuant to Act no. xx (the “**R&M Financing Order**”), [Electrical Utility] as Servicer of the Securitization Bonds or any successor Servicer, on behalf of the Trustee for the Securitization Bonds, (a) shall apply semi-annually or quarterly following the XX, XXXX (the last scheduled maturity date for the Securitization Bonds) for a mandatory periodic adjustment to the Securitization Charge, and (b) may apply at any time for an adjustment to the Securitization Charge as provided in Financing Order. Any capitalized terms not defined herein shall have the meanings ascribed thereto in the Financing Order or Act No. xx of the General Assembly of the State of South Carolina” codified at XXXXX .

Pursuant to the Financing Order, the review of a true-up notice by the Commission shall be administrative and limited only to determining whether there is any mathematical error in the application of the Adjustment Mechanism. The Office of Regulatory Staff shall review and make recommendations to the Commission regarding this true-up notice filed within thirty (30) days of receipt of this notice. Any such adjustments shall ensure the recovery of revenues sufficient to provide for the payment of the Securitization Bonds and all Ongoing Securitization Costs. Within forty-five (45) days after receipt of this true-up notice, the Commission shall either approve this request or inform us of any mathematical errors in the attached calculation. If the Commission informs us of a mathematical error in our calculation, we may correct the error and refile our request to correct the mathematical error so long as the adjustment goes into effect no later than sixty days following the initial filing. If the Commission does not approve our corrected adjustment as of such sixtieth day, the original true up adjustment will go into

effect and any adjustment to correct for the mathematical error shall be made in our next true-up filing. No error by us shall affect the validity of any true-up adjustment

Using the allocation methodology and Adjustment Mechanism set forth in the Financing Order, this filing modifies the variables used in the Securitization Charge calculation and provides the resulting modified Securitization Charge. The assumptions underlying the current Securitization Charge are shown in Table I below. Attachments 1 shows the resulting Securitization Charge calculated in accordance with the Financing Order.

Respectfully submitted,
 [Electrical Utility]
 By:
 Name:
 Title:
 Date:

Attachment

Table I below shows the current assumptions for each of the variables used in the calculation of the Securitization Charge.

<u>TABLE I</u>	
<u>Input Values For Securitization Charge</u>	
Applicable payment periods: from _____, _____ to _____, _____	
<u>Forecasted kWh sales for the applicable payment period:</u>	
<u>Periodic Payment Requirement (PPR) for the applicable payment period:</u>	\$ _____
<u>Charge-off rate.</u>	
<u>Forecasted % of billings paid in the applicable payment period:</u>	_____ %

EXHIBIT T

RELEVANT REDEEMABLE BONDS

[To Come]