

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
PREPARED REBUTTAL TESTIMONY
OF
W. L. BROWN

Q. Please state your name, address, occupation and employer.

A. My name is Lynn Brown. My business address is 702 North Franklin Street, Tampa, Florida 33602. I am employed by Tampa Electric Company ("Tampa Electric" or company") as Director-Wholesale Marketing and Sales.

Q. Are you the same Lynn Brown who filed direct testimony in this docket?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address the issues raised by FIPUG witness Kent D. Taylor with respect to the Hardee Power Partners purchased power agreement ("HPP agreement").

1 Q. Have you prepared an exhibit in supporting your rebuttal
2 testimony?

3
4 A. Yes. Exhibit __ (WLB-2) contains two documents.
5

6 Q. Has the HPP agreement been available for review by FIPUG?
7

8 A. Yes. The underlying agreement between HPP and Tampa
9 Electric dated July 27, 1989 has been on file with and
10 approved by the Federal Energy Regulatory Commission
11 ("FERC") for nearly a decade. Subsequent amendments to
12 the agreement dated September 28, 1989 and December 13,
13 1990 were also approved by the FERC and are on file and
14 available for public inspection.
15

16 The third and fourth amendments to the HPP and Tampa
17 Electric agreement, both dated as of September 15, 1999
18 and filed with the FERC on that date, were approved by
19 the FERC on October 15, 1999 in Docket Nos. ER99-4453-000
20 and ER99-4454-000. These amendments are also on file and
21 available for public inspection. They are also available
22 through the FERC's Internet web site. Tampa Electric has
23 notified this Commission each time its agreement with HPP
24 has been amended. The most recent amendments to the
25 agreement are included in Document 1 of my exhibit. Also

1 included in my exhibit as Document 2 is the petition HPP
2 filed with FERC regarding the HPP agreement.

3
4 Q. How did the opportunity to purchase firm power under the
5 HPP agreement arise?

6
7 A. This opportunity arose by virtue of HPP's having the
8 ability to use Seminole Electric Cooperative's ("SEC")
9 Hardee site for the Phase II build out. HPP's ability to
10 use this site together with its opportunity to purchase a
11 75-megawatt ("MW") combustion turbine ("CT") provided a
12 unique opportunity to obtain a critical firm 75-MW
13 purchase without using Tampa Electric's Polk site. This
14 is important since the company already has accelerated
15 its plans to build out the Polk site which includes two
16 180-MW CT additions between now and May 2002.

17
18 Q. Please describe the basic provisions of the HPP
19 agreement.

20
21 A. In Order No. 22335 issued in Docket No. 880309-EC on
22 December 22, 1989, this Commission determined the need
23 for construction of the Hardee Power Station to serve the
24 needs of SEC with the project also serving the needs of
25 Tampa Electric's customers. The project was to be

1 constructed by Tampa Electric's affiliate, TECO Power
2 Services Corporation, in two phases. Phase I of the
3 project, consisting of one 220-MW combined cycle unit and
4 one 75-MW CT, was constructed and placed in service in
5 1993. SEC retained the option to call for the
6 construction of Phase II consisting of an additional 145
7 MWs of capacity (one 75-MW CT and two heat recovery steam
8 generators with associated steam turbines) scheduled to
9 be placed in service in 2003.

10
11 On May 24, 1999 SEC waived its option under its agreement
12 with HPP to require construction of Phase II.
13 Accordingly, Tampa Electric exercised its option under
14 the agreement to require HPP to begin construction. The
15 first phase of the Phase II build out will consist of the
16 construction of a 75-MW CT next to the existing CT which
17 HPP expects to have in service by May 15, 2000. Tampa
18 Electric has the ability to complete the Phase II build
19 out and is required to notify HPP of this option by
20 December 1, 2000. The first phase of the Phase II build
21 out is reflected in the fourth amendment to the agreement
22 for the sale and purchase of capacity and energy between
23 HPP and Tampa Electric.

1 The purchased power agreement in the fourth amendment
2 becomes effective May 15, 2000 and expires December 31,
3 2012. Capacity payments are \$6.23 per kilowatt month and
4 energy charges are priced similar to those of the
5 original agreement. Tampa Electric and SEC entered into
6 a subsequent agreement whereby SEC has a non-firm, second
7 call on the unit and pays a daily capacity charge and
8 energy charge whenever they exercise their call. These
9 charges are the same as those paid by Tampa Electric to
10 HPP and all revenues from sales to SEC will be credited
11 to Tampa Electric's retail customers.

12
13 Q. What are alternatives that Tampa Electric would consider
14 under the circumstances?

15
16 A. A Florida utility requiring energy in the current market
17 has the option of: (1) being willing to pay high spot
18 prices for non-firm energy and take the risk that the
19 power may not be available, (2) building additional
20 generation resources to mitigate its exposure to such
21 prices, or (3) entering into short and long-term
22 contracts for capacity and energy purchases.

23
24 Q. What approach has Tampa Electric taken under these
25 circumstances?

1 A. Tampa Electric has taken a balanced approach using
2 several different strategies to meet its customers'
3 needs. Provision of reliable service is paramount. The
4 company believes it is extremely important to immediately
5 address the reliability needs of the company's customers
6 in ways that provide reasonable assurance that the
7 resources will be available. With that in mind, the
8 company determined that it would be beneficial and
9 prudent to accelerate its Polk Unit 2 construction, a
10 180-MW CT from January 2001 to October 2000 and its Polk
11 Unit 3, a 180-MW CT from January 2003 to May 2002. Next,
12 the company negotiated several short-term firm agreements
13 with Okeelanta Corp., Farmland Hydro Inc., and Auburndale
14 Power Partners. Finally, the company negotiated with HPP
15 for the purchase of firm power from May 15, 2000 to
16 December 31, 2012.

17
18 Q. How did Tampa Electric evaluate the terms of the HPP
19 agreement to other market opportunities?

20
21 A. With respect to the HPP agreement, Tampa Electric
22 received responses to its solicitation from Florida Power
23 and Light and Florida Power Corporation and both proposed
24 higher pricing than the HPP agreement pricing. This
25 analysis is supported in the rebuttal testimony of Tampa

1 Electric witness Mark D. Ward. The company also received
2 a proposal from the City of Lakeland that initially
3 appeared to have the potential to provide a lower price
4 than the HPP agreement but it was subsequently withdrawn.
5

6 Q. Have you looked at the energy futures market to compare
7 the prices to be paid under these purchased power
8 agreements with the published forward energy prices for
9 the eastern United States trading hubs?
10

11 A. Yes. Tampa Electric found that the HPP contracted prices
12 are below the competitive bid price for the twelve-year
13 term. The contracted prices for each purchased power
14 agreement the company entered into for 1999 and 2000 were
15 also lower than published forward prices for specific
16 periods in 1999 and 2000.
17

18 Q. How does Tampa Electric justify the prudence of the
19 purchase of power under the HPP agreement?
20

21 A. As described in Mr. Ward's testimony, the company
22 performed several production cost analyses to ensure the
23 HPP agreement was a cost effective and prudent investment
24 that met the company's integrated resource plan.
25

1 Q. How do the total costs of this additional 75 MW compare
2 to the total costs of the original HPP agreement?

3
4 A. The costs are lower.

5
6 Q. Does this conclude your rebuttal testimony?

7
8 A. Yes.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

TAMPA ELECTRIC COMPANY
(WLB-2)
DOCUMENT NO. 1
PAGE 1 OF 11
FILED 10/04

THIRD AMENDMENT

Exhibit No. _____ (WLB-2),
Document No. 1

AGREEMENT FOR THE SALE OF ELECTRICITY AND ENERGY

BETWEEN

HARDER POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)

AND

TAMPA ELECTRIC COMPANY

Dated as of July 27, 1989

As Previously Amended

SEPTEMBER 28, 1989 and

DECEMBER 13, 1990

THIRD AMENDMENT

DATED AS OF September 15, 1999

TO THE

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY

BETWEEN

HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION),

AND

TAMPA ELECTRIC COMPANY

Dated as of July 27, 1989,

As Previously Amended

SEPTEMBER 28, 1989 and

DECEMBER 13, 1990

**THIRD AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE
OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED
AND TAMPA ELECTRIC COMPANY**

This Third Amendment ("Third Amendment") to the Agreement for Sale and Purchase of Capacity and Energy Agreement between Hardee Power Partners Limited and Tampa Electric Company (hereinafter referred to as the "Tampa Agreement") is made and entered into this 15th day of September 1999, by and between Hardee Power I, Inc., acting as General Partner on behalf of Hardee Power Partners Limited, a Florida limited partnership having its principal place of business at 702 N. Franklin Street, Tampa, Florida 33602, as assignee of TECO Power Services Corporation (hereinafter referred to as "HPP") and Tampa Electric Company, a Florida corporation (hereinafter referred to as "Tampa") having its principal place of business at 702 N. Franklin Street, Tampa, Florida 33602. All capitalized terms used in this Amendment shall be as defined in the Tampa Agreement as amended herein.

WITNESSETH

WHEREAS, in 1989, HPP and Tampa entered into the Tampa Agreement pursuant to which HPP is obligated to supply to Tampa 295 MW of capacity and associated energy from the 1993 Non-Coal Facilities; and

WHEREAS, concurrently with the execution of the Tampa Agreement, HPP and Seminole Electric Cooperative, Inc. ("Seminole") entered into an Agreement for Sale and Purchase of Capacity and Energy (as amended, the "Seminole Agreement"), pursuant to which HPP is obligated to supply to Seminole 295 MW of capacity and energy, all of which is to come from the 1993 Non-Coal Facilities; and

WHEREAS, the Seminole Agreement provides that in the event Seminole constructs its own 220 MW combined cycle generating plant on the Site, HPP will share the HPS Site Common Facilities (including facilities specifically listed in the Seminole Agreement) with Seminole based on Seminole being responsible for an equitable share of the cost of necessary modifications, expansions or adjustments of the facilities necessary to support such capacity and an equitable share of any increase in operation and maintenance costs with respect to such HPS Site Common Facilities; and

WHEREAS, Seminole has decided to construct a 488 MW combined cycle generating facility on the Site, rather than a 220 MW facility; and

WHEREAS, Seminole's construction of a 488 MW facility at the Site will result in Seminole's increased utilization of the HPS Site Common Facilities; and

WHEREAS, Tampa and HPP desire to amend the Tampa Agreement to reflect the increased utilization of the HPS Site Common Facilities by Seminole as a result of the construction of the 488 MW facility at the Site;

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual benefits to be obtained from the covenants herein, the Parties hereby agree as follows:

ARTICLE I.

DEFINITIONS

Section 1. 1. Additional Definitions - The following additional definitions are hereby added to the Tampa Agreement and all subsection numbering shall be deemed revised accordingly:

"Access Roads" shall mean Front Access Road and the Cooling Reservoir Access Road at the Site.

"Cooling Reservoir" is referred to as the "cooling pond" in Section 7.7 and shall mean the nominal 570 acre reservoir at the Site, including but not limited to the berm, the spillway, the reservoir overflow and weir, the box culvert, and the road from the Cooling Reservoir Access Road to the spillway, the associated ground water monitoring wells for the reservoir, and all improvements to the foregoing; but excluding the capital additions to the Cooling Reservoir made solely by Seminole, which additions shall be part of HPS #3.

"Cooling Reservoir Access Road" shall mean the access road from HPS #1 and #2 extending north to the Cooling Reservoir berm and overflow weir, as it may be modified from time to time.

"FDEP" shall mean the State of Florida Department of Environmental Protection.

"Front Access Road" shall mean the road from the Site entrances on the Brewster-Fort Green Road, extending west and south to the turn-off for HPS #3 and further south to the Switchyard within the HPS existing fence, as it may be modified from time to time.

"Hardee Power Station, Unit #3" or "HPS #3" shall mean the 488 MW combined cycle generating facility proposed to be built by Seminole on the Site. HPS #3 is also designated and known as the "Payne Creek Generating Station."

"Hardee Power Station, Units #1 and #2" or "HPS #1 and #2" shall mean the generating facilities comprising the 1993 Non-Coal Facilities and, to the extent that they have been constructed, the 2003 Capacity Additions.

"HPP" shall mean both HPP and, solely when referring to agreements which have been assigned to HPP, its legal predecessor in interest, TPS.

"HPS Site Common Facilities Capacity Charge Adjustment" shall mean the amount by which the Monthly Capacity Charge is adjusted each month pursuant to Section 6.4.9 to reflect the HPS Site Common Facilities Capacity Charge.

"HPS Site Common Facilities" shall mean the following facilities: (a) the Access Roads, (b) the Cooling Reservoir, (c) the Natural Gas Pipeline, (d) the Switchyard, (e) the Site and (f) the Water Wells and Pumps; all of which are among the common facilities listed and contemplated to be shared by HPS #1 and #2 and HPS #3; provided that any capital additions to the HPS Site Common Facilities made solely by Seminole solely for HPS #3 shall not be a part of the HPS Site Common Facilities; and capital additions to the HPS Site Common Facilities made solely by HPP solely for the 2003 Capacity Additions shall be part of the 2003 Capacity Additions and not part of the HPS Site Common Facilities.

"HPS Site Common Facilities Capacity Charge" shall mean the component of the HPS Site Common Facilities Capacity Charge Adjustment that is the result of Seminole's equitable share of the HPS Site Common Facilities as a result of the

construction of HPS #3 and Tampa's equitable share of the HPS Site Common Facilities as a result of the construction of 2003 Capacity Additions.

"HPS Site Common Facilities Energy Charge" shall mean the charges which are included in the Monthly Energy Charge pursuant to Section 6.5.4 which are the result of Seminole's equitable share of the Fixed Operation and Maintenance Cost and Variable Operation and Maintenance Cost associated with the HPS Site Common Facilities as a result of the construction of HPS #3 and Tampa's equitable share of the Fixed Operation and Maintenance Cost and Variable Operation and Maintenance Cost associated with the HPS Site Common Facilities as a result of the construction of the 2003 Capacity Additions.

"HPS #3 Capacity Charge Adjustment Effective Date" shall mean the first day of the month following receipt of final approval of the modification of the conditions of certification to allow the construction and operation of HPS #3 from the FDEP.

"HPS #3 Commercial Operation Date" shall mean the "Provisional Acceptance Date," as defined in the HPS #3 Construction Contract, currently scheduled for January 1, 2002. The Provisional Acceptance Date shall mean the date when construction of HPS #3 is complete and the thermal performance and environmental emissions of the plant have been demonstrated.

"HPS #3 Construction Contract" shall mean the Engineering, Procurement and Construction Agreement by and among Seminole, Siemens Westinghouse Power Corporation and Overland Contracting, Inc., dated as of December 10, 1998, relating to HPS #3.

"HPS # 3 Construction Release" shall mean the date on which the construction contractor under the HPS #3 Construction Contract has equipment, material and labor on the Site ready and organized to commence construction of HPS #3. The date of HPS # 3 Construction Release is currently scheduled for March 1, 2000.

"HPS #3 Energy Charge Effective Date" shall mean the date which is three hundred and thirty (330) days from the HPS #3 Construction Release.

"Natural Gas Pipeline" shall mean the existing nine and seven-tenths (9.7) mile, eighteen (18) inch natural gas pipeline and associated meter station facilities serving the Site, located between the Hardee Power Station and the Florida Gas Transmission Corporation's Sarasota lateral located near the intersection of State Road 37 and Polk County Road 630, including the piping and natural gas filter station on the Site, and all improvements to the foregoing; but excluding the capital additions made solely by or for Seminole to the Natural Gas Pipeline, which additions shall be part of HPS #3.

"Switchyard" shall mean the electrical switching facilities to the east of the HPS #1 and #2 and south of the location of HPS #3, including the breakers, bus, relay and protection equipment, control building, support structures and foundations,

and all improvements to the foregoing; but excluding the capital additions made solely by Seminole for HPS #3 to the Switchyard, which additions shall be part of HPS #3 and further excluding all capital additions made solely by HPP for the 2003 Capacity Additions to the Switchyard, which additions shall be part of the 2003 Capacity Additions.

"TPS" shall mean TECO Power Services Corporation, a wholly-owned subsidiary of TECO Energy, Inc.

"Water Wells and Pumps" shall mean the three wells and associated electric motor driven pumps which currently provide makeup water to the Cooling Reservoir and process water to HPS #1 and #2, including the pumps, piping to the Cooling Reservoir, control and metering equipment, and all improvements to any of the foregoing; but excluding the capital additions made solely by Seminole to the Water Wells and Pumps, which additions shall be part of HPS #3.

Section 1.2. Amended Definitions - The following definitions in the Tampa Agreement shall be amended as set forth below and likewise shall be subject to renumbering as provided in Section 1.1:

"Fair Market Value" of any property as of any date shall mean the cash price obtainable in an arm's-length sale between an informed and willing buyer (under no compulsion to buy) and an informed and willing seller (under no compulsion to sell) of the property in question. If the Parties are unable to agree upon a determination of Fair Market Value, such Fair Market Value shall be determined in accordance with the Appraisal Procedure. With respect to determination of Fair Market Value of all or any part of the HPS Site Common Facilities, such value shall be determined by a third party other than Seminole who is free to use and remove the property without regard to this Agreement.

"Fixed Operation and Maintenance Cost" shall mean the cost associated with the day-to-day staffing of the Hardee Power Station, rents and maintenance of the plant structures, as calculated pursuant to Appendices F, J and X.

"Hardee Power Station" shall mean collectively HPS #1 and #2 and HPS #3.

"REA" or "RUS" shall mean the Rural Electrification Administration and its successor agency, the Rural Utilities Service of the U.S. Department of Agriculture, and any further successor agency.

"Variable Operation and Maintenance Cost" shall mean the cost associated with steam and electricity production and the maintenance of boiler, steam and electric plant, including generation unit start-up costs not otherwise allocated, as calculated pursuant to Appendices G, K and Y.

ARTICLE II.

AMENDMENTS REGARDING OPERATIONS

Section 2.1 Appendix A - Appendix A to the Tampa Agreement shall be hereby amended with the replacement Appendix A attached to this Third Amendment.

ARTICLE III.

AMENDMENTS TO CHARGING, BILLING AND PAYMENTS

Section 3.1 Monthly Capacity Charge - Section 6.4 of the Tampa Agreement shall be amended to read as follows:

6.4 Monthly Capacity Charge: The Monthly Capacity Charge shall be equal to the Monthly CT/CC Capacity Charge for the CT/CC Facilities. For the Monthly CT/CC Capacity Charge, during the period from the Date of Operations to the earlier of (a) the last day of the tenth Contract Year and (b) December 31, 2003, the Monthly CT/CC Capacity Charge shall be \$1,137,250. During the period described in the preceding sentence through the remaining term of this Agreement, the Monthly CT/CC Capacity Charge shall be \$1,184,917. All monthly capacity charges described in this Section 6.4 shall be subject to adjustment only as expressly provided for in this Agreement.

Section 3.2 HPS Site Common Facilities Capacity Charge Adjustment - The following Section 6.4.9 shall be added to the Tampa Agreement:

6.4.9 HPS Site Common Facilities Capacity Charge Adjustment: Commencing on the HPS #3 Capacity Charge Adjustment Effective Date and subject to Sections 6.4.9.1 through 6.4.9.4, the HPS Site Common Facilities Capacity Charge Adjustment shall be a credit of \$19,494 to reflect the utilization of the HPS Site Common Facilities by HPS #3. Commencing on January 1, 2003 and subject to Section 6.4.9.1 through 6.4.9.4, the HPS Site Common Facilities Capacity Charge Adjustment shall be a credit of \$20,320 to reflect the utilization of the HPS Site Common Facilities by HPS #3.

6.4.9.1 Termination of Use of HPS Site Common Facilities: At such time, if any, that Seminole permanently ceases to use all or any part of the HPS Site Common Facilities, the HPS Site Common Facilities Capacity Charge Adjustment shall be equitably adjusted to reflect such reduced usage. The Parties shall promptly prepare and execute the necessary amendments to this Agreement and HPP shall file such amendments with the FERC as are required. The adjustment of the HPS Site Common Facilities Capacity Charge Adjustment with

respect to HPS #3 shall be effective on the later of the first day of the month following written notice by HPP to Tampa that Seminole is permanently ceasing the use of such facilities at HPS #3 or the day on which the FERC has permitted such adjustment to go into effect.

6.4.9.2 Cancellation of HPS #3: If HPS #3 is canceled following the HPS #3 Capacity Charge Adjustment Effective Date, the HPS Site Common Facilities Capacity Charge Adjustment shall be adjusted accordingly. Such adjustment shall be effective on the later of the first day of the month following written notice by HPP to Tampa that HPS #3 has been canceled or the day on which the FERC has permitted such adjustment to go into effect. For purposes of this Section 6.4.9.2 and Section 6.5.3, HPS #3 shall be deemed "canceled" as the result of any action that cancels its construction altogether or delays the scheduled HPS #3 Commercial Operation Date by six (6) or more years beyond January 1, 2002.

6.4.9.3. Delay of HPS #3: Should either the HPS #3 Construction Release or the HPS #3 Commercial Operation Date be delayed for a period that results in a delay of the scheduled HPS #3 Commercial Operation Date by more than one (1) year but less than six (6) years from January 1, 2002, then the HPS Site Common Facilities Capacity Charge Adjustment with respect to the HPS #3 shall be suspended for a period equal to the scheduled delay. Such suspension of the HPS Site Common Facilities Capacity Charge Adjustment shall be effective on the later of the first day of the month following written notice by HPP to Tampa that HPS #3 has been delayed or the day on which the FERC has permitted such suspension to go into effect.

6.4.9.4 Future Adjustments of HPS #3: If HPS #3 is reconfigured or adjusted in its nominal electrical capacity capability and/or in its use of the HPS Site Common Facilities, the HPS Site Common Facilities Capacity Charge Adjustment shall be equitably adjusted and HPP shall promptly file any necessary documents with the FERC to carry out the intent of the Parties under this Section.

Section 3.3 Monthly Energy Charge - Certain parts of Section 6.5 of the Tampa Agreement and Appendices F, G, J, K, T and U to the Tampa Agreement shall be amended to reflect changes in the Monthly Energy Charge. In addition, Section 6.5.3 and Appendices X and Y shall be added to the Tampa Agreement.

Section 3.3.1 Monthly Energy Charge - Section 6.5 of the Tampa Agreement shall be amended to read as follows:

6.5. Monthly Energy Charge: The Monthly Energy Charge shall be comprised of (i) the Monthly Combustion Turbine Cost, (ii) the Monthly

Combined Cycle Cost and (iii) the HPS Site Common Facilities Energy Charge. Costs and allocations of costs shall be determined in accordance with the records and accounting system of HPP. Such records and accounting system will be kept according to generally accepted utility accounting practices, including the FERC Uniform System of Accounts.

Section 3.3.2 Monthly Combustion Turbine Cost - Section 6.5.1(b) of the Tampa

Agreement shall be amended to read as follows:

(b) The sum of (i) forty percent (40%) of the Delivery Month Fixed Operation and Maintenance Costs (provided, however, that, upon the occurrence of the HPS #3 Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded) allocated to the CT unit as calculated pursuant to Appendix F and (ii) the Tampa portion of the Delivery Month Variable Operation and Maintenance Costs (provided, however, that, upon the occurrence of the HPS #3 Energy Charge Effective Date, the Variable Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded) allocated to the CT unit as calculated pursuant to Appendix G less any portion of such costs allocated to Off-System Sales, allocated to Tampa in the proportion that the energy generated by the CT unit for Tampa during the previous twelve (12) month period ending with the Delivery Month bears to the total net energy generated by such unit during the same twelve (12) month period (provided that such total net energy shall not include energy generated for Off-System Sales);

Section 3.3.3 Monthly Combined Cycle Cost - Section 6.5.2(b) of the Tampa

Agreement shall be amended to read as follows:

(b) The sum of (i) forty percent (40%) of the Delivery Month Fixed Operation and Maintenance Costs (provided, however, that, upon the occurrence of the HPS #3 Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded) allocated to the Combined Cycle Units as calculated pursuant to Appendix J and (ii) the Tampa portion of the Delivery Month Variable Operation and Maintenance Costs (provided, however, that, upon the occurrence of the HPS #3 Energy Charge Effective Date, the Variable Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded) associated with the Combined Cycle Units as calculated pursuant to Appendix K less any portion of such costs allocated to Off-System Sales, allocated to Tampa in the proportion that the energy generated by the Combined Cycle Units for Tampa during the previous twelve (12) month period ending with the Delivery Month bears to the total net energy generated by the Combined Cycle Units during the same twelve (12) month period (provided that such total net energy shall not include energy generated for Off-System Sales);

Section 3.3.4 HPS Site Common Facilities Energy Charge - The following Section 6.5.3 shall be added to the Tampa Agreement:

6.5.3 HPS Site Common Facilities Energy Charge: Commencing on the HPS #3 Energy Charge Effective Date and continuing through the term of this Agreement, the HPS Site Common Facilities Energy Charge shall include an allocation to reflect Seminole's equitable share of the Delivery Month Fixed Operation and Maintenance Cost and the Delivery Month Variable Operation and Maintenance Cost associated with the utilization of the HPS Site Common Facilities for HPS #3, as calculated pursuant to Appendices X and Y. The HPS Site Common Facilities Energy Charge shall also be subject to adjustment in accordance with Sections 6.4.9.1 through 6.4.9.4.

ARTICLE IV.

EFFECTIVE DATE

Section 4.1 Effective Date - This Third Amendment shall be effective on the later to occur of (i) the date on which this Third Amendment and the Third Amendment to the Seminole Agreement are accepted for filing by the FERC and allowed to become effective and (ii) the date on which the Third Amendment to the Seminole Agreement is approved by the Administrator of the Rural Utilities Service.

IN WITNESS WHEREOF, the Parties hereto have caused this Third Amendment to the Tampa Agreement to be executed by their fully authorized officers, and copies delivered to each party, as of the first day above written.

HARDEE POWER I, INC.
acting as General Partner of
HARDEE POWER PARTNERS LIMITED

WITNESSES:

[Signature]
[Signature]

By:

[Signature]

Title:

President

TAMPA ELECTRIC COMPANY

WITNESSES:

[Signature]
[Signature]

By:

[Signature]

Title:

President

APPENDIX F

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

COMBUSTION TURBINE
FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Cost" excluding fuel, identified in Section 6.5.1 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance (Sum of Lines 1 Through 14; See Note 4)		
16	Percent Allocable to Tampa: 40%.		

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE
TO TAMPA (Line 15 x Line 16)

- Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.
- Note 2: Resources 03 and 33.
- Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.
- Note 4: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the CT unit and shall exclude all Fixed Operation and Maintenance Cost associated with the HPS Site Common Facilities upon the occurrence of the HPS #3 Energy Charge Effective Date. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX G

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

COMBUSTION TURBINE
VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Cost" excluding fuel, identified in Section 6.5.1 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance (Appendix F, Line 15)	
17	Total Variable Operation & Maintenance (Line 15 – Line 16)	

- 18 Operation & Maintenance Allocated to Off-System Sales
- 19 Total Variable O&M To Be Allocated (Line 17 - Line 18)
- 20 Energy Generated by the CT Unit for Tampa During the Previous Twelve Month Period Ending With the Delivery Month
- 21 Total Energy Generated By the CT Unit During the Previous Twelve Month Period Ending With the Delivery Month
- 22 Energy Generated by the CT Unit for Off-System Sales During the Previous Twelve Month Period Ending With the Delivery Month
- 23 Total Net Energy Generated By the CT Unit Exclusive of Energy Generated for Off-System Sales (Line 21 - Line 22)
- 24 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 20 divided by Line 23)
- 25 Total Variable O&M Allocable to Tampa Associated With Tampa's Sales of Schedules A and B Interchange Service
- 26 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA ((Line 19 x Line 24) + Line 25)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the CT unit and shall exclude all Fixed Operation and Maintenance Cost and Variable Operation and Maintenance Cost associated with the HPS Site Common Facilities upon the occurrence of the HPS #3 Energy Charge Effective Date. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX J

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

COMBINED CYCLE
FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Cost" excluding fuel, identified in Section 6.5.2 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance (Sum of Lines 1 Through 14; See Note 4)		
16	Percent Allocable to Tampa: 40%.		

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE
TO TAMPA (Line 15 x Line 16)

Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 2: Resources 03 and 33.

Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 4: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the Combined Cycle unit and shall exclude all Fixed Operation and Maintenance Cost associated with the HPS Site Common Facilities upon the occurrence of the HPS #3 Energy Charge Effective Date. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX K

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

COMBINED CYCLE
VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Cost" excluding fuel, identified in Section 6.5.2 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance (Appendix J, Line 15)	
17	Total Variable Operation & Maintenance (Line 15 - Line 16)	

- 18 Operation & Maintenance Allocated to Off-System Sales
- 19 Total Variable O&M To Be Allocated (Line 17 - Line 18)
- 20 Energy Generated by the Combined Cycle Units for Tampa During the Previous Twelve Month Period Ending With the Delivery Month
- 21 Total Energy Generated By the Combined Cycle Units During the Previous Twelve Month Period Ending With the Delivery Month
- 22 Energy Generated by the Combined Cycle Units for Off-System Sales During the Previous Twelve Month Period Ending With the Delivery Month
- 23 Total Net Energy Generated By the Combined Cycle Units Exclusive of Energy Generated for Off-System Sales (Line 21 - Line 22)
- 24 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 20 divided by Line 23)
- 25 Total Variable O&M Allocable to Tampa Associated With Tampa's Sales of Schedules A and B Interchange Service
- 26 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA ((Line 19 x Line 24) + Line 25)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the Combined Cycle unit and shall exclude all Fixed Operation and Maintenance Cost and Variable Operation and Maintenance Cost associated with the HPS Site Common Facilities upon the occurrence of the HPS #3 Energy Charge Effective Date. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX T

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

REPLACEMENT OF COMBUSTION TURBINE PROPERTY UNITS EXPENSE

For purposes of this Agreement, the "Delivery Month Fixed Charges for Replacement Property Units" identified in Section 6.5.1 (c) shall be determined as follows:

<u>Line</u>	<u>Description</u>
1	Expenditures (Net of Salvage Value) for Replacement of Property Units of the CT 2A – Current Month (Note 1)
2	Expenditures for Replacement of Property Units from Inception of Agreement to End of Prior Month (Per Prior Bill – Line 3)
3	Cumulative Expenditures for Replacement of Property Units of the CT 2A from Inception of Agreement to End of Current Month (Line 1 + 2)
4	Fixed Charge Rate (14.67% Annually/12): 1.222%
5	Current Month Fixed Charges for Property Units Replaced on the CT 2A (Line 3 x Line 4)
6	Percent Allocable to Tampa: 40%
7	Delivery Month Fixed Charges for Property Units Replaced on the CT 2A and Allocable to Tampa (Line 5 x Line 6)

Note 1: Includes only those capitalized expenditures for the replacement of property units which existed, per design specifications, on the date that the CT 2A was placed in commercial operation, or as subsequently modified by mutual agreement of the Parties or as otherwise determined by the Operating Committee from time to time. HPP shall define the property units and submit such definitions to the Operating Committee for review and approval.

APPENDIX U

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

REPLACEMENT OF COMBINED CYCLE PROPERTY UNITS EXPENSE

For purposes of this Agreement, the "Delivery Month Fixed Charges for Replacement Property Units" identified in Section 6.5.2 (c) shall be determined as follows:

<u>Line</u>	<u>Description</u>
1	Expenditures (Net of Salvage Value) for Replacement of Property Units of the Combined Cycle Units - Current Month (Note 1)
2	Expenditures for Replacement of Property Units from Inception of Agreement to End of Prior Month (Per Prior Bill - Line 3)
3	Cumulative Expenditures for Replacement of Property Units of the Combined Cycle Units from Inception of Agreement to End of Current Month (Line 1 + 2)
4	Fixed Charge Rate (14.67% Annually/12): 1.222%
5	Current Month Fixed Charges for Property Units Replaced on the Combined Cycle Units (Line 3 x Line 4)
6	Percent Allocable to Tampa: 40%
7	Delivery Month Fixed Charges for Property Units Replaced on the Combined Cycle Units and Allocable to Tampa (Line 5 x Line 6)

Note 1: Includes only those capitalized expenditures for the replacement of property units which existed, per design specifications, on the date that the Combined Cycle Unit in question was placed in commercial operation, or as subsequently modified by mutual agreement of the Parties or as otherwise determined by the Operating Committee from time to time. HPP shall define the property units and submit such definitions to the Operating Committee for review and approval.

APPENDIX X

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

HPS SITE COMMON FACILITIES

FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Cost associated with the utilization of the HPS Site Common Facilities" excluding fuel, identified in Section 6.5.3 shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance Associated with HPS Site Common Facilities (Sum of Lines 1 Through 14; See Note 4)		

16 Percent Allocable to Tampa commencing on the HPS #3 Energy Charge Effective Date: 28%.

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE TO TAMPA FOR HPS SITE COMMON FACILITIES (Line 15 x Line 16)

Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 2: Resources 03 and 33.

Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 4: Amounts in lines 1 through 14 shall include only those direct expenses associated with the HPS Site Common Facilities. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX Y

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN

HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)

AND

TAMPA ELECTRIC COMPANY

HPS SITE COMMON FACILITIES

VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Cost associated with the utilization of the HPS Site Common Facilities" excluding fuel, identified in Section 6.5.3 shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance Associated With HPS Site Common Facilities (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance Associated With HPS Site Common Facilities (Appendix X, Line 15)	

- 17 Total Variable Operation & Maintenance Associated With HPS Site Common Facilities To Be Allocated (Line 15 - Line 16)
- 18 Energy Generated for Tampa from HPS #1 and #2 During the Previous Twelve Month Period Ending With the Delivery Month
- 19 Total Energy Generated from HPS #1 and #2 and HPS #3 During the Previous Twelve Month Period Ending With the Delivery Month
- 20 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 18 divided by Line 19)
- 21 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA FOR HPS SITE COMMON FACILITIES (Line 17 x Line 20)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses associated with the HPS Site Common Facilities. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

FOURTH AMENDMENT

DATED AS OF September 15, 1999

TO THE

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY

BETWEEN

HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION),

AND

TAMPA ELECTRIC COMPANY

Dated as of July 27, 1989,

As Previously Amended

SEPTEMBER 28, 1989 and

DECEMBER 13, 1990

**FOURTH AMENDMENT TO AGREEMENT FOR SALE AND PURCHASE
OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED
AND TAMPA ELECTRIC COMPANY**

This Fourth Amendment ("Fourth Amendment") to the Agreement for Sale and Purchase of Capacity and Energy Agreement between Hardee Power Partners Limited and Tampa Electric Company (hereinafter referred to as the "Tampa Agreement") is made and entered into this 15th day of ^{September} ^ 1999, by and between Hardee Power I, Inc., acting as General Partner on behalf of Hardee Power Partners Limited, a Florida limited partnership having its principal place of business at 702 N. Franklin Street, Tampa, Florida 33602, as assignee of TECO Power Services Corporation (hereinafter referred to as "HPP") and Tampa Electric Company, a Florida corporation (hereinafter referred to as "Tampa") having its principal place of business at 702 N. Franklin Street, Tampa, Florida 33602. All capitalized terms used in this Amendment shall be as defined in the Tampa Agreement as amended herein.

WITNESSETH

WHEREAS, in 1989, HPP and Tampa entered into the Tampa Agreement pursuant to which HPP is obligated to supply to Tampa 295 MW of capacity and associated energy from the 1993 Non-Coal Facilities; and

WHEREAS, concurrently with the execution of the Tampa Agreement, HPP and Seminole Electric Cooperative, Inc. ("Seminole") entered into an Agreement for Sale and Purchase of Capacity and Energy (as amended, the "Seminole Agreement"), pursuant to which HPP is obligated to supply to Seminole 295 MW of capacity and energy, all of which is to come from the 1993 Non-Coal Facilities; and

WHEREAS, pursuant to the Tampa Agreement and the Seminole Agreement, Tampa, Seminole and HPP were granted certain rights to require the expansion of the 1993 Non-Coal Facilities to include the 2003 Capacity Additions; and

WHEREAS, by letter dated May 24, 1999, Seminole waived its option to require the construction of the 2003 Capacity Additions as provided for in the Seminole Agreement; and

WHEREAS, Tampa has exercised its option to require the construction of the 2003 Capacity Additions in two phases; and

WHEREAS, HPP is willing to finance, construct, operate and maintain such 2003 Capacity Additions pursuant to the rates, terms and conditions set forth herein; and

WHEREAS, HPP's construction of the 2003 Capacity Additions for Tampa will result in Tampa's increased utilization of the HPS Shared Common Facilities at the Site for which Tampa shall be responsible for an equitable share of the cost of necessary modifications, expansions, or adjustments of the facilities necessary to support such capacity and an equitable share of the operation and maintenance costs with respect to the HPS Shared Common Facilities; and

WHEREAS, Tampa and HPP desire to amend the Tampa Agreement to reflect the increased utilization of the HPS Shared Common Facilities by Tampa as a result of the construction of the 2003 Capacity Additions and the purchase of capacity and associated energy from the 2003 Capacity Additions by Tampa;

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual benefits to be obtained from the covenants herein, the Parties hereby agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.1. Additional Definitions – The following additional definitions are hereby added to the Tampa Agreement and all subsection numbering shall be deemed revised accordingly:

“HPS Plant Common Facilities” shall mean facilities including the oil storage and transfer system, the natural gas pipeline system, other than the Natural Gas Pipeline, the well water system, other than the Water Wells and Pumps, the service water systems, the demineralizer, the sewage treatment/wastewater system, the site drainage system, the fire protection system, the control building, office furniture and equipment, exterior lighting, plant communications, warehouse and equipment, miscellaneous equipment and tools, vehicles and access roads, other than the Access Roads, all of which are used or intended to be used exclusively by HPS #1 and #2, but excluding the HPS Site Common Facilities. Capital additions to the HPS Plant Common Facilities made solely by Seminole solely for HPS #3 shall not be part of the HPS Plant Common Facilities and capital additions to the HPS Plant Common Facilities made solely by HPP solely for the 2003 Capacity Additions shall be part of the 2003 Capacity Additions and shall not be part of the HPS Plant Common Facilities.

“HPS Plant Common Facilities Capacity Charge” shall mean the component of the HPS Shared Common Facilities Capacity Charge Adjustment that is the result of Tampa’s equitable share of the HPS Plant Common Facilities as a result of the construction of the 2003 Capacity Additions.

“HPS Plant Common Facilities Energy Charge” shall mean the charges to Tampa which are included in the Monthly Energy Charge pursuant to Section 6.5.5 which are the result of Tampa’s equitable share of the Fixed Operation and Maintenance Costs and Variable Operation and Maintenance Costs associated with the HPS Plant Common Facilities as a result of the construction of the 2003 Capacity Additions.

“HPS Shared Common Facilities” shall mean the HPS Site Common Facilities and the HPS Plant Common Facilities.

“HPS Shared Common Facilities Capacity Charge Adjustment” shall mean the amount by which the Monthly Capacity Charge is adjusted each month pursuant to Section 6.4.9 to reflect the HPS Plant Common Facilities Capacity Charge and the HPS Site Common Facilities Capacity Charge.

“2003 Capacity Additions Actual Availability” shall have the meaning and be calculated in the manner set forth in Appendix BB.

"2003 Capacity Additions Actual Net Electrical Output" shall mean the electrical capability after allowance for station service at which the first phase of the 2003 Capacity Additions can operate as determined pursuant to the 2003 Capacity Additions Performance Tests described in Appendices BB and CC.

"2003 Capacity Additions Actual Net Heat Rate" shall mean the heat rate after allowance for station service at which the first phase of the 2003 Capacity Additions can operate as determined pursuant to the 2003 Capacity Additions Performance Tests described in Appendices BB and CC.

"2003 Capacity Additions Capacity Charge" shall mean the component of the Monthly Capacity Charge as adjusted each month pursuant to Sections 6.4.9 and 6.4.10 that reflects Tampa's purchase of the capacity supplied through the construction of the 2003 Capacity Additions.

"2003 Capacity Additions Capacity Charge Adjustment Effective Date" shall mean the first day of the month following receipt of final approval of the modification of the conditions of certification to allow the construction and operation of the first phase of the 2003 Capacity Additions from the FDEP.

"2003 Capacity Additions Commercial Operation Date" shall mean the date HPP notifies Tampa of the occurrence of the date of Substantial Completion under the 2003 Capacity Additions Construction Contract and the achievement by the CT 2B of minimum net electrical output of eighty (80) megawatts on natural gas adjusted to 59 degrees site conditions, or as otherwise agreed by the Parties.

"2003 Capacity Additions Construction Contract" shall mean the Engineering, Procurement and Construction Agreement between TPS, National Energy Production Corporation and Enron Capital and Trade Resources Corp. dated as of June 17, 1999 relating to the construction of the first phase of the 2003 Capacity Additions.

"2003 Capacity Additions Construction Release" shall mean the date certified at the time in writing by HPP providing authorization to begin construction of the first phase of the 2003 Capacity Additions pursuant to the 2003 Capacity Additions Construction Contract. The date of the 2003 Capacity Additions Construction Release is currently scheduled for November 15, 1999.

"2003 Capacity Additions Contract Year" shall mean a one year period beginning on the first day of the month in which the 2003 Capacity Additions Commercial Operation Date occurs, except that the initial 2003 Capacity Additions Contract Year shall commence on the 2003 Commercial Operation Date and the final 2003 Capacity Additions Contract Year shall end on the date of termination of this Agreement.

"2003 Capacity Additions Correction Period" shall mean the period of time during which HPP continues to pay to Tampa delay damages pursuant to Section 8.3.1.1(a).

"2003 Capacity Additions Energy Charge" shall mean the monthly charges which are included in the Monthly Energy Charge pursuant to Section 6.5.4 which are the result of the Fixed Operation and Maintenance Costs and Variable Operation and Maintenance Costs associated solely with the 2003 Capacity Additions.

"2003 Capacity Additions Energy Charge Effective Date" shall mean the date which is ninety (90) days following the 2003 Capacity Additions Construction Release.

"2003 Capacity Additions Guaranteed Net Electrical Output" shall have the meaning set forth in Appendix BB.

"2003 Capacity Additions Guaranteed Net Heat Rate" shall have the meaning set forth in Appendix BB.

"2003 Capacity Additions Ongoing Guaranteed Availability" shall have the meaning set forth in Section 8.3.3.1(b).

"2003 Capacity Additions Ongoing Guaranteed Net Electrical Output" shall have the meaning set forth in Section 8.3.3.1(a).

"2003 Capacity Additions Ongoing Guaranteed Net Heat Rate" shall have the meaning set forth in Section 8.3.3.1(a).

"2003 Capacity Additions Performance Guarantees" shall have the meaning set forth in Section 8.3.2.

"2003 Capacity Additions Performance Tests" shall mean the performance tests to be performed on the first phase of the 2003 Capacity Additions as set forth in Appendix CC.

Section 1.2. Amended Definitions - The following definitions in the Tampa Agreement shall be amended as set forth below and likewise shall be subject to renumbering as provided in Section 1. 1:

"CT/CC Capacity" shall mean the capacity of the CT/CC Facilities.

"CT/CC Facilities" shall mean the 1993 Non-Coal Facilities.

"Capacity and Corresponding Energy" shall mean the capacity and hourly energy generated by the CT/CC Facilities or the 2003 Capacity Additions, as appropriate given the context.

"Economy Interchange Service" shall mean the sale of interchange service from either the CT/CC Facilities or the 2003 Capacity Additions under terms and

conditions of any service schedule in effect now or in the future, other than Schedules A and B Interchange Service, set forth in a Standard Interchange Agreement.

"Fair Market Value" of any property as of any date shall mean the cash price obtainable in an arm's-length sale between an informed and willing buyer (under no compulsion to buy) and an informed and willing seller (under no compulsion to sell) of the property in question. If the Parties are unable to agree upon a determination of Fair Market Value, such Fair Market Value shall be determined in accordance with the Appraisal Procedure. With respect to determination of Fair Market Value of all or any part of the HPS Shared Common Facilities, such value shall be determined by a third party other than Seminole who is free to use and remove the property without regard to this Agreement.

"Fixed Operation and Maintenance Cost" shall mean the cost associated with the day-to-day staffing of the Hardee Power Station, rents and maintenance of the plant structures, as calculated pursuant to Appendices F, J, V and X.

"HPS Site Common Facilities Capacity Charge" shall mean the component of the HPS Shared Common Facilities Capacity Charge Adjustment that is the result of Seminole's equitable share of the HPS Site Common Facilities as a result of the construction of HPS #3 and Tampa's equitable share of the HPS Site Common Facilities as a result of the construction of the 2003 Capacity Additions.

"Off-System Sales" shall mean Schedules A and B Interchange Service and Economy Interchange Service from the CT/CC Facilities to which Tampa is entitled and the 2003 Capacity Additions.

"Variable Operation and Maintenance Cost" shall mean the cost associated with steam and electricity production and the maintenance of boiler, steam and electric plant, including generation unit start-up costs not otherwise allocated, as calculated pursuant to Appendices G, K, W and Y.

"2003 Capacity Additions" shall mean all or any portion of the following facilities that may be constructed pursuant to the terms of this Agreement: CT 2B, HRSG 2A, HRSG 2B, and ST 2 and, to the extent appropriate in the context, all appurtenant common and supporting facilities owned by HPP at the Site.

Section 1.3 Deleted Definition - The definition of "HPS Site Common Facilities Capacity Charge Adjustment" added by the Third Amendment to the Agreement shall be deleted.

ARTICLE II.

AMENDMENTS REGARDING TERM

Section 2.1 Term of Power Sale - Section 2.2 of the Tampa Agreement shall be amended to read as follows:

2.2 Term of Power Sale: HPP shall sell Capacity and Corresponding Energy to Tampa from the CT/CC Facilities and the 2003 Capacity Additions under this Agreement, and Tampa shall purchase such Capacity and Corresponding Energy from HPP, commencing on the Date of Operation with respect to the CT/CC Facilities and commencing on the 2003 Capacity Additions Commercial Operation Date with respect to the 2003 Capacity Additions and continuing thereafter until the termination of this Agreement.

ARTICLE III.

AMENDMENTS REGARDING POWER SUPPLY FACILITIES

Section 3.1 Description of Facilities - Section 3.1 of the Tampa Agreement shall be amended to read as follows:

3.1 Description of Facilities: The Capacity and Corresponding Energy that Tampa shall be entitled to under this Agreement shall only be that from or produced by the CT/CC Facilities and the 2003 Capacity Additions.

ARTICLE IV.

AMENDMENTS REGARDING PURCHASE RIGHTS

Section 4.1 2003 Capacity Additions Priority - The following Section 4.2 shall be added to the Tampa Agreement:

4.2 2003 Capacity Additions Priority: HPP shall cause the Operating Agent to dispatch the 2003 Capacity Additions and corresponding energy solely in accordance with the directions from, and for the benefit of, Tampa.

ARTICLE V.

AMENDMENTS REGARDING OPERATIONS

Section 5.1 Operating Agent. Section 5.1 of the Tampa Agreement shall be amended to read as follows:

5.1 Operating Agent: HPP shall select an operating agent (the "Operating Agent"), subject to Tampa's written approval, which approval shall not be unreasonably withheld. The Operating Agent shall operate and maintain HPS #1 and #2, dispatch the CT/CC Capacity and the capacity of the 2003 Capacity Additions, as appropriate given the context, and make Economy Interchange Sales pursuant to a written agreement with HPP (an "Operating Agreement"). The duties of the Operating Agent may be separated and assigned to separate entities, in which case "Operating Agent" shall mean, with respect to any provision in this Agreement, the entity performing the duty indicated by the context of such provision. HPP shall enforce such agreement to cause the Operating Agent to perform its obligations thereunder.

Section 5.2 Dispatch. Section 5.2 of the Tampa Agreement shall be amended to read as follows:

5.2 Dispatch: HPP shall cause the Operating Agent to dispatch the CT/CC Capacity and the capacity of the 2003 Capacity Additions, as appropriate given the context, in accordance with instructions from Tampa pursuant to Tampa's rights to purchase energy under this Agreement. HPP may alter the dispatch of the CT/CC Capacity if by so doing it will minimize overall fuel costs to both Seminole and Tampa.

Section 5.3 Delivery. Section 5.3 of the Tampa Agreement shall be amended to read as follows:

5.3 Delivery: HPP will deliver the Capacity and Corresponding Energy produced by the CT/CC Facilities and the 2003 Capacity Additions, as appropriate given the context, to Tampa at the Tampa interconnection facilities at the Hardee Power Station illustrated in Appendix A. Transmission of Capacity and Corresponding Energy beyond the Delivery Points shall be the responsibility of Tampa.

Section 5.4 Energy Scheduling. Section 5.4.2 of the Tampa Agreement shall be amended to read as follows:

5.4.2 Energy Scheduling:

(a) Beginning one day prior to the commencement of the sale of power under this Agreement and each day thereafter during its term, Tampa shall contact HPP or its Operating Agent by no later than 11:00 a.m. EPT and provide the amount of Capacity and Corresponding Energy from the CT/CC Capacity that it plans to schedule for the next day. Prior to 1:00 p.m. EPT each day, Tampa shall provide HPP or its Operating Agent with the amount of scheduled capacity and energy it expects to take from the CT/CC Capacity for each clock hour of the next day (a "Daily Schedule"). Such requirements shall take into consideration such operational constraints as may be determined from time to time by the Operating Committee. Prior to 3:00 p.m. EPT each day, HPP or its Operating Agent shall provide Tampa with a schedule of operation for the specific units of the CT/CC Capacity for the next day. Each Party shall make reasonable efforts to minimize departures from the Daily Schedule and shall immediately notify the other Party of any necessary changes.

(b) HPP and Tampa shall coordinate energy scheduling for the 2003 Capacity Additions through the Operating Agent. Tampa shall have the right to dynamically dispatch and place on automatic generation control the 2003 Capacity Additions.

Section 5.5 Energy Scheduling - The following Section 5.4.6 shall be added to the

Tampa Agreement:

5.4.6 2003 Capacity Additions: The rights and obligations of the Parties set forth in Sections 5.4.2.1, Section 5.4.4 and 5.4.5 shall apply, as appropriate given the context, to the 2003 Capacity Additions as such additions are placed in service.

Section 5.6 CT/CC Facilities Production Metering - The following Section 5.6.5 shall be added to the Tampa Agreement:

5.6.5 2003 Capacity Additions: The rights and obligations of the Parties set forth in Sections 5.6 through 5.6.4 shall apply, as appropriate given the context, to the 2003 Capacity Additions as such additions are placed in service.

Section 5.7 Inadvertent Transfer of Electric Power and Energy - Section 5.9 of the

Tampa Agreement shall be amended to read as follows:

5.9 Inadvertent Transfer of Electric Power and Energy:

(a) HPP, through its Operating Agent, will manage the balance between the cumulative scheduled deliveries and the actual power generated by the CT/CC Facilities.

(b) HPP, through its Operating Agent, will manage the balance between the cumulative scheduled deliveries and the actual power generated by the 2003 Capacity Additions.

Section 5.8 Insurance – Section 5.11.1.2 of the Tampa Agreement shall be amended as set forth in Section 5.8.1 of this Fourth Amendment. In addition, a new Section 5.13 shall be added to the Tampa Agreement as set forth in Section 5.8.2 of this Fourth Amendment to make certain provisions of Section 5.11 of the Tampa Agreement applicable to the 2003 Capacity Additions.

Section 5.8.1 Property Damage Insurance – Section 5.11.1.2 of the Tampa Agreement shall be amended to read as follows:

5.11.1.2 Property Damage Insurance: HPP shall cause to be maintained All Risk Builder's Risk Insurance in an amount equivalent to the completed value of the material and equipment included within the work scope of the 2003 Capacity Additions Construction Contract. This insurance shall insure such material and equipment against all risk of physical loss or damage from any external cause, subject to standard exclusions, and shall be deemed primary insurance for the construction contractor under the 2003 Capacity Additions Construction Contract.

Section 5.8.2 2003 Capacity Additions – The following Section 5.13 shall be added to the Tampa Agreement:

5.13 2003 Capacity Additions: The rights and obligations of the Parties set forth in Section 5.11, Section 5.11.1.1, Sections 5.11.1.3, 5.11.1.5, Section 5.11.2 through 5.11.2.4 and Section 5.12 shall apply, as appropriate given the context, to the 2003 Capacity Additions as such additions are placed in service.

Section 5.9 Appendix A – Appendix A to the Tampa Agreement shall be hereby amended with the replacement Appendix A attached to this Fourth Amendment.

ARTICLE VI.

AMENDMENTS TO CHARGING, BILLING AND PAYMENTS

Section 6.1 Monthly Charge – Section 6.3 of the Tampa Agreement shall be amended to read as follows:

6.3 Monthly Charge: Tampa shall pay HPP monthly during the period commencing with the Date of Operation and continuing to and including December 31, 2012 an amount (the "Monthly Charge") equal to the sum of the Monthly Capacity Charge and the Monthly Energy Charge for the CT/CC Facilities (adjusted for Off-System Sales pursuant to Section 6.6 and true-ups pursuant to Section 6.1) and the 2003 Capacity Additions. Effective upon the Date of Operation, Tampa shall pay the Monthly Charge with respect to the CT/CC Facilities in all events, whether or not the CT/CC Facilities generate and deliver the Capacity and Corresponding Energy sold to Tampa hereunder, or whether or not such Facilities are capable of generating and delivering such Capacity and Corresponding Energy, without regard to the cause of any failure or inability to generate and deliver such Capacity and Corresponding Energy, and such payments shall not be subject to any reduction, whether by offset or otherwise. Effective upon the 2003 Capacity Additions Commercial Operation Date, Tampa shall pay the Monthly Charge with respect to the first phase of the 2003 Capacity Additions in all events, whether or not the 2003 Capacity Additions generate and deliver the Capacity and Corresponding Energy sold to Tampa hereunder, or whether or not such 2003 Capacity Additions are capable of generating and delivering such Capacity and Corresponding Energy, without regard to the cause of any failure or inability to generate and deliver such Capacity and Corresponding Energy, and such payments shall not be subject to any reduction, whether by offset or otherwise. To the extent that no energy is generated and the calculation of any component of the Monthly Charge requires an allocation of expenses, such expenses shall be allocated as provided for in this Article VI.

Section 6.2 Monthly Capacity Charge – Section 6.4 of the Tampa Agreement shall be amended to read as follows:

6.4 Monthly Capacity Charge: The Monthly Capacity Charge shall be equal to the sum of the Monthly CT/CC Capacity Charge and the 2003 Capacity Additions Capacity Charge. For the Monthly CT/CC Capacity Charge, during the period from the Date of Operation to the earlier of (a) the last day of the tenth Contract Year and (b) December 31, 2003, the Monthly CT/CC Capacity Charge shall be \$1,137,250. During the period from the end of the period described in the preceding sentence through the remaining term of this Agreement, the Monthly CT/CC Capacity Charge shall be \$1,184,917. For the

2003 Capacity Additions Capacity Charge, during the period from the 2003 Capacity Additions Commercial Operation Date until December 31, 2012, the 2003 Capacity Additions Capacity Charge for the first phase shall be \$451,550. To the extent that the 2003 Capacity Additions Commercial Operation Date occurs during the month, the 2003 Capacity Additions Capacity Charge for such month shall be the 2003 Capacity Additions Capacity Charge set forth above multiplied by a fraction, the numerator of which is the number of days of the month starting with and subsequent to the 2003 Capacity Additions Commercial Operation Date and the denominator of which is the total number of days in the month in which the 2003 Capacity Additions Commercial Operation Date occurs. The Monthly Capacity Charge described in this Section 6.4 shall be subject to adjustment only as expressly provided for in this Agreement.

Section 6.3 HPS Shared Common Facilities Capacity Charge. - Section 6.4.9 of the Tampa Agreement shall be amended to read as follows:

6.4.9 HPS Shared Common Facilities Capacity Charge Adjustment:

- (a) Commencing on the HPS #3 Capacity Charge Adjustment Effective Date and subject to Sections 6.4.9.1 through 6.4.9.4, the HPS Shared Common Facilities Capacity Charge Adjustment shall be a credit of \$19,494 to reflect the utilization of the HPS Site Common Facilities by HPS #3.
- (b) Commencing on the 2003 Capacity Additions Capacity Charge Adjustment Effective Date and subject to Sections 6.4.9.1 through 6.4.9.4, the HPS Shared Common Facilities Capacity Charge Adjustment shall be a charge of \$57,710 to reflect the utilization of the HPS Site Common Facilities by HPS #3 and the 2003 Capacity Additions and the utilization of the HPS Plant Common Facilities by the 2003 Capacity Additions.
- (c) Commencing on January 1, 2003 and subject to Sections 6.4.9.1 through 6.4.9.4, the HPS Shared Common Facilities Capacity Charge Adjustment shall be a charge of \$60,154 to reflect the utilization of the HPS Site Common Facilities by HPS #3 and the 2003 Capacity Additions and the utilization of the HPS Plant Common Facilities by the 2003 Capacity Additions.
- (d) The HPS Shared Common Facilities Capacity Charge Adjustment, as set forth in Section 6.4.9(a) through (c), is calculated on the assumptions that (i) the HPS #3 Capacity Charge Adjustment Effective Date shall precede the 2003 Capacity Additions Capacity Charge Adjustment Effective Date and (ii) the HPS #3 Capacity Charge Adjustment Effective Date and the 2003 Capacity Additions Capacity Charge Adjustment Effective Date shall occur prior to January 1, 2003. In the event that the sequencing of such effective dates shall occur other than as assumed above, the HPS Shared Common Facilities Capacity Charge Adjustment,

as set forth in Section 6.4.9(a) through (c), shall be recalculated to reflect the changes in the sequencing of such effective dates and no other changes.

6.4.9.1 Termination of Use of HPS Shared Common Facilities: At such time, if any, that either Seminole or Tampa permanently ceases to use all or any part of the HPS Shared Common Facilities, the HPS Shared Common Facilities Capacity Charge Adjustment shall be equitably adjusted to reflect such reduced usage. The Parties shall promptly prepare and execute the necessary amendments to this Agreement and HPP shall file such amendments with the FERC as are required. The adjustment of the HPS Shared Common Facilities Capacity Charge Adjustment with respect to HPS #3 or the 2003 Capacity Additions shall be effective on the later of the first day of the month following written notice by HPP to Tampa that Seminole is permanently ceasing the use of such facilities for HPS #3 or that HPP is permanently ceasing the use of such facilities for the 2003 Capacity Additions or the day on which the FERC has permitted such adjustment to go into effect.

6.4.9.2 Cancellation of HPS #3 or the 2003 Capacity Additions: If either HPS #3 or the 2003 Capacity Additions is or are canceled following the HPS #3 Capacity Charge Adjustment Effective Date or the 2003 Capacity Additions Capacity Charge Adjustment Effective Date, as appropriate given the context, the HPS Shared Common Facilities Capacity Charge Adjustment shall be adjusted accordingly. The adjustment of the HPS Shared Common Facilities Capacity Charge Adjustment with respect to HPS #3 shall be effective on the later of the first day of the month following written notice by HPP to Tampa that HPS #3 has been canceled or the day on which the FERC has permitted such adjustment to go into effect. The adjustment of the HPS Shared Common Facilities Capacity Charge Adjustment with respect to 2003 Capacity Additions shall be effective on the later of the first day of the month following written notice by HPP to Tampa that the 2003 Capacity Additions have been canceled or the day on which the FERC has permitted such adjustment to go into effect. For purposes of this Section 6.4.9.2 and Section 6.5.3, HPS #3 shall be deemed "canceled" as the result of any action that cancels its construction altogether or delays the scheduled HPS #3 Commercial Operation Date by six (6) or more years beyond January 1, 2002. For purposes of this Section 6.4.9.2, Section 6.5.4 and Section 6.5.5, the 2003 Capacity Additions shall be deemed "canceled" as the result of any action that cancels construction altogether or delays the scheduled 2003 Capacity Additions Commercial Operation Date by six (6) or more years beyond May 15, 2000.

6.4.9.3. Delay of HPS #3 or the 2003 Capacity Additions: Should either the HPS #3 Construction Release or the HPS #3 Commercial Operation Date be delayed for a period that results in a delay of the scheduled HPS #3 Commercial Operation Date by more than one (1) year but less than six (6) years from January 1, 2002, then the HPS Shared Common Facilities Capacity Charge Adjustment with respect to HPS #3 shall be recalculated pursuant to Section 6.4.9(d) for the period equal to the scheduled delay. Such recalculation of the

HPS Shared Common Facilities Capacity Charge Adjustment shall be effective on the later of the first day of the month following written notice by HPP to Tampa that HPS #3 has been delayed or the day on which the FERC has permitted such suspension to go into effect. Should either the 2003 Capacity Additions Construction Release or the 2003 Capacity Additions Commercial Operation Date be delayed for a period that results in a delay of the scheduled 2003 Capacity Additions Commercial Operation Date by more than one (1) year but less than six (6) years from May 15, 2000, then the HPS Shared Common Facilities Capacity Charge Adjustment with respect to the 2003 Capacity Additions shall be recalculated pursuant to Section 6.4.9(d) for the period equal to the scheduled delay. Such recalculation of the HPS Shared Common Facilities Capacity Charge Adjustment shall be effective on the later of the first day of the month following written notice by HPP to Tampa that the 2003 Capacity Additions have been delayed or the day on which the FERC has permitted such suspension to go into effect.

6.4.9.4 Future Adjustments of HPS #3 or the 2003 Capacity Additions: If either HPS #3 or the 2003 Capacity Additions are reconfigured or adjusted in their nominal electrical capacity capability and/or in their use of the HPS Shared Common Facilities, the HPS Shared Common Facilities Capacity Charge Adjustment shall be equitably adjusted and HPP shall promptly file any necessary documents with the FERC to carry out the intent of the Parties under this Section.

Section 6.4 Further Adjustments to 2003 Capacity Additions Capacity Charge: The following Section 6.4.10 shall be added to the Tampa Agreement:

6.4.10 Further Adjustments to 2003 Capacity Additions Capacity Charge: As of the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Capacity Charge shall be subject to adjustment as provided for in Sections 6.4.2 through 6.4.8, provided, however, that Tampa shall be entitled to one hundred percent (100%) of the reduction provided for in Section 6.4.7 and shall be responsible for one hundred percent (100%) of the cost increase provided for in Section 6.4.8. Upon notification by Tampa to HPP to complete construction of the second phase of the 2003 Capacity Additions pursuant to Section 10.2.1, the Parties shall make further adjustments to the 2003 Capacity Additions Capacity Charge and HPP shall promptly file any necessary documents with the FERC to carry out the intent of the Parties under this Section.

Section 6.5 Monthly Energy Charge - Certain parts of Section 6.5 of the Tampa Agreement and Appendices F, G, H, J, K, L, U, X and Y to the Tampa Agreement shall be amended to reflect changes in the Monthly Energy Charge. In addition, Sections 6.5.4 and 6.5.5 and Appendices V, W, Z and AA shall be added to the Tampa Agreement.

Section 6.5.1 Monthly Energy Charge - Section 6.5 of the Tampa Agreement shall be amended to read as follows:

6.5. Monthly Energy Charge: The Monthly Energy Charge shall be comprised of (i) the Monthly Combustion Turbine Cost, (ii) the Monthly Combined Cycle Cost, (iii) the HPS Site Common Facilities Energy Charge, (iv) the 2003 Capacity Additions Energy Charge and (v) the HPS Plant Common Facilities Energy Charge. Costs and allocations of costs shall be determined in accordance with the records and accounting system of HPP. Such records and accounting system will be kept according to generally accepted utility accounting practices, including the FERC Uniform System of Accounts.

Section 6.5.2 Monthly Combustion Turbine Cost - Section 6.5.1 of the Tampa Agreement shall be amended to read as follows:

6.5.1 Monthly Combustion Turbine Cost: During any period when any of the CT units is operated as a stand-alone combustion turbine, the Monthly Combustion Turbine Cost shall be the sum of:

(a) The Tampa portion of the cost of fuel consumed by any CT unit other than the CT 2B as part of the 2003 Capacity Additions during the Delivery Month, including transportation and handling costs, allocated to Tampa on an hourly basis according to type of fuel, fuel cost, hourly unit load, the demonstrated heat rate corresponding to average load level in each hour and Tampa's proportion of the hourly load. (See Appendix E). In addition, a monthly adjustment shall be added to the total of the hourly charges to compensate for off-line fuel consumption and variations in unit heat rate. Such adjustment shall be calculated by subtracting from the total actual fuel consumption for the 1993 Non-Coal Facilities for each month the Theoretical Total Fuel Consumption. The "Theoretical Total Fuel Consumption" shall be defined as the product of the hourly average loadings and the corresponding heat rates. The Tampa portion of such adjustment shall be determined by dividing the total MWh delivered to Tampa from such CT unit during the Delivery Month by the total MWh generated by such CT unit during the Delivery Month; and

(b) The sum of (i) forty percent (40%) of the Delivery Month Fixed Operation and Maintenance Costs (provided, however, that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded) allocated to any CT unit other than the CT 2B as part of the 2003 Capacity Additions as calculated pursuant to Appendix F; and (ii) the Tampa portion of the Delivery Month Variable Operation and

Maintenance Costs (provided, however, that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Variable Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Variable Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded) allocated to any CT unit other than the CT 2B as part of the 2003 Capacity Additions as calculated pursuant to Appendix G less any portion of such costs allocated to Off-System Sales, allocated to Tampa in the proportion that the energy generated by any CT unit other than the CT 2B as part of the 2003 Capacity Additions for Tampa during the previous twelve (12) month period ending with the Delivery Month bears to the total net energy generated by such unit during the same twelve (12) month period (provided that such total net energy shall not include energy generated for Off-System Sales);

(c) Forty percent (40%) of the Delivery Month fixed charges for replaced property units of the CT 2A, as calculated pursuant to Appendix T; and

(d) Forty percent (40%) of the Delivery Month administrative and general expenses allocated to any CT unit, as calculated pursuant to Appendix H, until the occurrence of the 2003 Capacity Additions Energy Charge Effective Date at which time the percentage shall be fifty nine and seventy-seven one hundredths percent (59.77%) of the Delivery Month administrative and general expenses allocated to any CT unit, as calculated pursuant to Appendix H.

Section 6.5.3 Monthly Combined Cycle Cost – Section 6.5.2 of the Tampa Agreement

shall be amended to read as follows:

6.5.2 Monthly Combined Cycle Cost: The Monthly Combined Cycle Cost shall be the sum of:

(a) The Tampa portion of the cost of fuel consumed by the CC 1 during the Delivery Month, including transportation and handling costs, allocated to Tampa on an hourly basis according to type of fuel, fuel cost, hourly unit load, the demonstrated heat rate corresponding to average load level in each hour and Tampa's proportion of the hourly load. (See Appendix I). In addition, a monthly adjustment shall be added to the total of the hourly charges to compensate for off-line fuel consumption and variations in unit heat rate. Such adjustment shall be calculated by subtracting from the total actual fuel consumption for the 1993 Non-Coal Facilities for each month the Theoretical Total Fuel Consumption. The "Theoretical Total Fuel Consumption" shall be defined as the product of the hourly average loadings and the corresponding heat rates. The Tampa portion of such adjustment shall be determined by dividing the total MWh delivered to Tampa from the CC 1 during the Delivery Month by the total MWh generated by the CC 1 during the Delivery Month; and

(b) The sum of (i) forty percent (40%) of the Delivery Month Fixed Operation and Maintenance Costs (provided, however, that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded) allocated to the CC 1 as calculated pursuant to Appendix J; and (ii) the Tampa portion of the Delivery Month Variable Operation and Maintenance Costs (provided, however, that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Variable Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Variable Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded) associated with the CC 1 as calculated pursuant to Appendix K less any portion of such costs allocated to Off-System Sales, allocated to Tampa in the proportion that the energy generated by the CC 1 for Tampa during the previous twelve (12) month period ending with the Delivery Month bears to the total net energy generated by the CC 1 during the same twelve (12) month period (provided that such total net energy shall not include energy generated for Off-System Sales); and

(c) Forty percent (40%) of the Delivery Month fixed charges for replaced property units of the CC 1, as calculated pursuant to Appendix U; and

(d) Forty percent (40%) of the Delivery Month administrative and general expenses allocated to the Combined Cycle Units, as calculated pursuant to Appendix L, until the occurrence of the 2003 Capacity Additions Energy Charge Effective Date at which time the percentage shall be fifty nine and seventy-seven one hundredths percent (59.77%) of the Delivery Month administrative and general expenses allocated to the Combined Cycle Units, as calculated pursuant to Appendix L.

Section 6.5.4 HPS Site Common Facilities Energy Charge – Section 6.5.3 of the Tampa

Agreement shall be amended to read as follows:

6.5.3 HPS Site Common Facilities Energy Charge:

(a) The HPS Site Common Facilities Energy Charge shall commence on the earlier of the HPS #3 Energy Charge Effective Date or the 2003 Capacity Additions Energy Charge Effective Date and shall continue through the remaining term of this Agreement. The HPS Site Common Facilities Energy Charge shall be calculated pursuant to Appendices X and Y and shall be subject to adjustment in accordance with Sections 6.4.9.1 through 6.4.9.4. The allocations in Appendix X are calculated on the assumption that the 2003 Capacity Additions Energy Charge

Effective Date precedes the HPS #3 Energy Charge Effective Date. In the event that the sequencing of such effective dates shall occur other than as assumed, the allocations shall be recalculated to reflect the changes in sequencing of such effective dates and no other changes.

(b) Commencing on the HPS #3 Energy Charge Effective Date, the HPS Site Common Facilities Energy Charge to Tampa shall include an allocation to reflect Seminole's equitable share of the Delivery Month Fixed Operation and Maintenance Costs and the Delivery Month Variable Operation and Maintenance Costs associated with the utilization of the HPS Site Common Facilities for HPS #3, as calculated pursuant to Appendices X and Y.

(c) Commencing on the 2003 Capacity Additions Energy Charge Effective Date, the HPS Site Common Facilities Energy Charge to Tampa shall include an allocation to reflect Tampa's equitable share of the Delivery Month Fixed Operation and Maintenance Costs and the Delivery Month Variable Operation and Maintenance Costs associated with the utilization of the HPS Site Common Facilities for the 2003 Capacity Additions, as calculated pursuant to Appendices X and Y.

Section 6.5.5 2003 Capacity Additions Site Common Facilities Energy Charge - The following Section 6.5.4 shall be added to the Tampa Agreement:

6.5.4 2003 Capacity Additions Energy Charge: The 2003 Capacity Additions Energy Charge shall commence on the 2003 Capacity Additions Commercial Operation Date and shall continue through the remaining term of this Agreement. The 2003 Capacity Additions Energy Charge to Tampa shall be subject to adjustment in accordance with Sections 6.4.9.1 through 6.4.9.4. The 2003 Capacity Additions Energy Charge shall be the sum of:

(a) The total cost of fuel consumed by the 2003 Capacity Additions during the Delivery Month, including transportation and handling costs; and

(b) The Delivery Month Fixed Operation and Maintenance Costs and Delivery Month Variable Operation and Maintenance Costs (but excluding the Delivery Month Fixed Operation and Maintenance Costs and the Delivery Month Variable Operation and Maintenance Costs associated with the HPS Shared Common Facilities) allocated to the 2003 Capacity Additions as calculated pursuant to Appendix Z; and

(c) The Delivery Month fixed charges for replaced property units of the 2003 Capacity Additions, as calculated pursuant to Appendix AA.

Section 6.5.6 HPS Plant Common Facilities Energy Charge - The following Section 6.5.5 shall be added to the Tampa Agreement:

6.5.5 HPS Plant Common Facilities Energy Charge: The HPS Plant Common Facilities Energy Charge shall commence on the 2003 Capacity Additions Energy Charge Effective Date and shall continue through the remaining term of this Agreement. The HPS Plant Common Facilities Energy Charge to Tampa shall include an amount to reflect Tampa's equitable share of the Delivery Month Fixed Operation and Maintenance Costs and the Delivery Month Variable Operation and Maintenance Costs associated with the utilization of the HPS Plant Common Facilities as a result of the construction by HPP of all or part of the 2003 Capacity Additions as calculated pursuant to Appendices V and W. The HPS Plant Common Facilities Energy Charge shall also be subject to adjustment in accordance with Sections 6.4.9.1 through 6.4.9.4.

Section 6.6 Interchange Sales - Section 6.6 of the Tampa Agreement shall be amended to read as follows:

6.6 Interchange Sales: Except as provided for in Section 6.6.4, Tampa shall be entitled to forty percent (40%) of the Benefits Derived from all Off-System Sales of Capacity and Corresponding Energy. Sales and payments for or recovery of the attributable costs and benefits shall be made in the following manner.

Section 6.7 Interchange Sales from the 2003 Capacity Additions - The following Section 6.6.4 shall be added to the Tampa Agreement:

6.6.4 Interchange Sales from the 2003 Capacity Additions: Notwithstanding the foregoing, Tampa shall be entitled to one hundred (100%) of the Benefits Derived from all Off-System Sales of Capacity and Corresponding Energy made from the 2003 Capacity Additions.

Section 6.8 Test Fuel - Section 6.7.1 of the Tampa Agreement shall be amended to read as follows:

6.7.1 Test Fuel: Tampa shall pay HPP forty percent (40%) of the cost of all fuel use associated with Test Operation of the 1993 Non-Coal Facilities and one hundred percent (100%) of the cost of all fuel use associated with the activities in connection with the check-out, testing and start-up of the 2003 Capacity Additions, including transportation and handling cost.

Section 6.9 Test Energy from 2003 Capacity Additions - The following Section 6.7.3 shall be added to the Tampa Agreement:

6.7.3 Test Energy from 2003 Capacity Additions: Tampa shall purchase any energy produced by the 2003 Capacity Additions during test

operation. If, after reasonable efforts, Tampa is unable to purchase such energy as reasonably necessary to allow test operation, HPP shall cause the Operating Agent to sell any such energy. HPP shall pay Tampa one hundred percent (100%) of all revenues from such sales from the 2003 Capacity Additions. Such payment shall be in the form of a credit to Tampa's liability for fuel cost pursuant to this Section 6.7.

ARTICLE VII.

AMENDMENTS TO DESIGN, CONSTRUCTION AND LICENSING

Section 7.1 Section 7.1 of the Tampa Agreement shall be amended to read as follows:

7.1 Design Review by Tampa: HPP will provide Tampa copies of plot plans, equipment arrangement drawings, piping and instrumentation drawings, station one-line drawings, electrical elementary drawings, equipment specifications and all environmental permit applications related to the CT/CC Facilities and the 2003 Capacity Additions for review within forty-eight (48) hours of the time it receives such items from the contractor or completes such documents for which it is responsible. Tampa may review and provide comments to HPP regarding such technical documentation and applications. Tampa's review and comments will be of an advisory nature. To the extent practicable, Tampa will be provided four (4) working days to review each document transmittal. Tampa may at its option attend regularly scheduled design review and project status meetings that are held by HPP and the contractor.

Section 7.2 Construction Review by Tampa: Section 7.2 of the Tampa Agreement shall be amended to read as follows:

Section 7.2 Construction Review by Tampa: Tampa will have the right to maintain a construction representative on the Site during construction of the CT/CC Facilities and the 2003 Capacity Additions, provided such activity does not interfere with the work. The role of the construction representative will be to monitor on-site activities for Tampa. The construction representative will have access to all construction areas and activities, including drawings and other technical documentation. Upon request, HPP will provide the construction representative with copies of available schedules and drawings and technical documents. HPP will permit the construction representative to attend, if he so elects, regularly scheduled construction progress and coordination meetings. Tampa will provide construction office space for the construction representative. HPP will, at no cost to Tampa, provide convenient space for a construction office and nearby parking for the construction representative. The construction representative will observe all legal, job site safety, security and construction rules established for the project construction. From time to time, other Tampa representatives and agents may visit the Site to review progress and attend

appropriate meetings related to construction of the CT/CC Facilities and the 2003 Capacity Additions. HPP will provide a construction progress report to Tampa on a monthly basis describing the status of all major project equipment deliveries, major construction activities, and testing activities. Upon receipt from the contractor, HPP will provide Tampa one set of the as-built plant design drawings and one set of equipment manuals.

ARTICLE VIII.

AMENDMENTS TO PERFORMANCE REPRESENTATIONS

Section 8.1 Performance Representation – Section 8.1 of the Tampa Agreement shall be amended to read as follows:

8.1 Performance Representation: HPP shall construct or cause to be constructed the 1993 Non-Coal Facilities and the 2003 Capacity Additions, to the extent such additions are constructed pursuant to Section 10.2.1, and shall operate or cause to be operated the 1993 Non-Coal Facilities and the 2003 Capacity Additions in accordance with Prudent Utility Practice.

Section 8.2 2003 Capacity Additions Guarantees – The following Section 8.3 shall be added to the Tampa Agreement:

8.3 2003 Capacity Additions:

8.3.1 In-Service Date Guarantee: HPP guarantees that the 2003 Capacity Additions Commercial Operation Date shall occur on or before May 15, 2000, as the same may be extended pursuant to this Agreement due to Force Majeure.

8.3.1.1 Liquidated Damages to the Account of HPP: In the event that the 2003 Capacity Additions Commercial Operation Date is delayed beyond May 15, 2000, then HPP shall pay Tampa as liquidated damages and not as penalty, the following amounts under the following conditions:

(a) Delay in Completion: If, by May 15, 2000, the 2003 Capacity Additions Commercial Operations Date has not occurred, HPP shall pay to Tampa the sum of \$9,000 for each day elapsed beyond May 15, 2000, until August 14, 2000. If, by August 15, 2000, the 2003 Capacity Additions Commercial Operation Date has not occurred, HPP shall continue to pay Tampa \$7,000 per day until November 14, 2000. After November 14, 2000 or if HPP is no longer receiving or entitled to receive daily delay damages under the 2003 Capacity Additions Construction Contract, HPP may at its option pay Tampa \$8,000 for each succeeding day up to May 15, 2002. Upon HPP's termination of the

payment of delay damages prior to the 2003 Capacity Additions Commercial Operation Date, Tampa may, upon thirty (30) days written notice to HPP, purchase the property and rights of the 2003 Capacity Additions described in Section 11.3 in accordance with the provisions of such section. In all events, such purchase by Tampa shall be subject to compliance by HPP and/or Tampa, as applicable, with all applicable conditions contained in any financing documents relating to the 2003 Capacity Additions.

(b) Payments for Delay: Payments required by this Section 8.3.1.1 shall be paid monthly by the 15th day of the following month. All payments to Tampa shall be by wire or electronic funds transfer to Tampa's account in a domestic bank as directed in writing by Tampa.

(c) Liquidation of Remedies: Except as provided for in Section 8.3.1.1(a), the liquidated damages provided herein shall be in lieu of and shall, when paid or credited, relieve HPP from all liability for any and all extra costs, losses or expenses, claims and penalties, loss of use of the first phase of the 2003 Capacity Additions, cost of capital, loss of revenue, and any other damages of whatsoever nature incurred by Tampa which are occasioned by any such delay in the 2003 Capacity Additions Commercial Operation Date.

8.3.2 Initial Performance Guarantees: The 2003 Capacity Additions Performance Guarantees shall mean the performance characteristics of the first phase of the 2003 Capacity Additions as set forth in Appendix BB, which HPP guarantees the first phase of the 2003 Capacity Additions will simultaneously achieve when tested pursuant to the 2003 Capacity Additions Performance Tests, while complying with all applicable environmental requirements.

8.3.2.1 Remedial Procedure: If the 2003 Capacity Additions Performance Guarantees have not been met on or prior to May 15, 2000, HPP shall take corrective action throughout the 2003 Capacity Additions Correction Period, provided that if the 2003 Capacity Additions Commercial Operation Date occurs before the end of the 2003 Capacity Additions Correction Period, the 2003 Capacity Additions Correction Period shall continue until the earlier of the date two (2) years following the 2003 Capacity Additions Commercial Operation Date and the date on which the 2003 Capacity Additions Performance Guarantees are achieved. The 2003 Capacity Additions Capacity Charge during the 2003 Capacity Additions Correction Period, if any, shall be determined in accordance with this and other provisions of this Fourth Amendment. If, on the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Performance Guarantees have not been met, Tampa shall, for each applicable month, be entitled to an adjustment to the 2003 Capacity Additions Capacity Charge in accordance with Section 8.3.2.2, such adjustment shall be Tampa's sole remedy for any failure to fulfill the 2003 Capacity Additions Performance Guarantees and such failure shall not be an Event of Default under this Agreement. From time to time after the first adjustment described above until the end of the 2003 Capacity Additions Correction Period, HPP may at its option

conduct additional 2003 Capacity Addition Performance Tests on the first phase of the 2003 Capacity Additions and recalculate the adjustment of the 2003 Capacity Additions Capacity Charge in accordance with the most recent such tests and Section 8.3.2.2.

8.3.2.2 Capacity Charge Adjustment: The Parties agree that as specified in Section 8.3.2.1, if the 2003 Capacity Additions Performance Guarantees have not been met on the 2003 Capacity Additions Commercial Operation Date, HPP shall adjust the 2003 Capacity Additions Capacity Charge to Tampa as noted in Items (a), (b) and (c) of this Section for each applicable month. Any decreases in the 2003 Capacity Additions Capacity Charge as a result of this Section shall be considered liquidated damages and not penalty sums. The initial adjustments of the 2003 Capacity Additions Capacity Charge shall take place on 2003 Capacity Additions Commercial Operation Date and all adjustments shall be based upon the difference between the actual performance of the first phase of the 2003 Capacity Additions, as determined by the 2003 Capacity Additions Performance Tests, and the 2003 Capacity Additions Performance Guarantees for the following specific items:

(a) **2003 Capacity Additions Net Electrical Output:** If the 2003 Capacity Additions Actual Net Electrical Output is less than the 2003 Capacity Additions Guaranteed Net Electrical Output, then HPP shall reduce the 2003 Capacity Additions Capacity Charge by two percent (2%) for each percentage point, with portions of a percentage point prorated, that the 2003 Capacity Additions Actual Net Electrical Output capability is less than the 2003 Capacity Additions Guaranteed Net Electrical Output.

(b) **2003 Capacity Additions Net Heat Rate:** If the 2003 Capacity Additions Actual Net Heat Rate is less than the 2003 Capacity Additions Guaranteed Net Heat Rate, then HPP shall reduce the 2003 Capacity Additions Capacity Charge by one and one tenth percent (1.1%) for each percentage point, with portions of a percentage point prorated, that the 2003 Capacity Additions Actual Net Heat Rate is less than the 2003 Capacity Additions Guaranteed Net Heat Rate.

(c) **Limitations of Adjustments:** The adjustment of the 2003 Capacity Additions Capacity Charge for differences between the 2003 Capacity Additions Actual Net Electrical Output and the 2003 Capacity Additions Actual Net Heat Rate and the 2003 Capacity Additions Guaranteed Net Electrical Output and the 2003 Capacity Additions Guaranteed Net Heat Rate, respectively, shall not, in the aggregate, exceed thirty three percent (33%) of the 2003 Capacity Additions Capacity Charge.

8.3.3. 2003 Capacity Additions Ongoing Performance Guarantees: If, after the beginning of the first full 2003 Capacity Additions Contract Year after the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Ongoing Performance Guarantees, as defined in Section 8.3.3.1 below,

have not been met, as determined by an Annual 2003 Capacity Additions Performance Test or any Optional 2003 Capacity Additions Performance Test or a 2003 Capacity Additions Retest, as provided in Section 8.3.3.2 below, HPP shall adjust the 2003 Capacity Additions Capacity Charge to Tampa as provided in Section 8.3.3.4 below.

8.3.3.1. Performance Criteria: "2003 Capacity Additions Ongoing Performance Guarantees" shall mean the performance characteristics of the 2003 Capacity Additions as applicable for a particular 2003 Capacity Additions Contract Year, which HPP guarantees the 2003 Capacity Additions (i) will simultaneously achieve, with respect to (a) below, when tested in accordance with the 2003 Capacity Additions Performance Tests conducted pursuant to Section 8.3.3.2, while complying with all applicable environmental requirements and (ii) will have achieved, with respect to (b) below, on a historical basis.

(a) 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output and Heat Rate: The 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output and the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate shall be determined in the following manner:

(i) during the period from the 2003 Capacity Additions Commercial Operation Date to the end of the first full 2003 Capacity Additions Contract Year after the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output shall be equal to the lesser of the 2003 Capacity Additions Actual Net Electrical Output determined in the 2003 Capacity Additions Performance Test upon which the declaration of the 2003 Capacity Additions Commercial Operation Date was based and the 2003 Capacity Additions Guaranteed Net Electrical Output, and the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate shall be equal to the greater of the 2003 Capacity Additions Actual Net Heat Rate determined in such 2003 Capacity Additions Performance Test and the 2003 Capacity Additions Guaranteed Net Heat Rate;

(ii) during the second full 2003 Capacity Additions Contract Year after the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output shall be equal to the average of the 2003 Capacity Additions Actual Net Electrical Output determined in the Annual 2003 Capacity Additions Performance Test in the previous 2003 Capacity Additions Contract Year and the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output during the previous 2003 Capacity Additions Contract Year; and the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate during a 2003 Capacity Additions Contract Year shall be the average of the 2003 Capacity Additions Actual Net Heat Rate determined in the Annual 2003 Capacity Additions Performance Test in the previous 2003 Capacity Additions Contract Year and the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate during the previous 2003 Capacity Additions Contract Year;

(iii) during each succeeding 2003 Capacity Additions Contract Year, the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output and the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate for such 2003 Capacity Additions Contract Year shall be the average of the 2003 Capacity Additions Actual Net Electrical Output and of the 2003 Capacity Additions Actual Net Heat Rate, respectively, determined in the Annual 2003 Capacity Additions Performance Test in each of the two preceding 2003 Capacity Additions Contract Years; provided

(iv) the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output shall not be less than eighty percent (80%) of, and the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate shall not be greater than one hundred twenty percent (120%) of, the 2003 Capacity Additions Actual Net Electrical Output and the 2003 Capacity Additions Actual Net Heat Rate, respectively, determined in the 2003 Capacity Additions Performance Test upon which the declaration of the 2003 Capacity Additions Commercial Operation Date was based; and further provided

(v) the values used to determine the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output pursuant to clauses (ii) and (iii) shall not be greater than the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output determined pursuant to clause (i).

(b) 2003 Capacity Additions Ongoing Guaranteed Availability:
The 2003 Capacity Additions Ongoing Guaranteed Availability shall be determined in the following manner:

(i) during the period from the 2003 Capacity Additions Commercial Operation Date to the end of the first full 2003 Capacity Additions Contract Year after the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Ongoing Guaranteed Availability shall be eighty five percent (85%);

(ii) during the second full 2003 Capacity Additions Contract Year, after the 2003 Capacity Additions Commercial Operation Date, the 2003 Capacity Additions Ongoing Guaranteed Availability shall be equal to the average of ninety percent (90%) and the 2003 Capacity Additions Actual Availability during the previous 2003 Capacity Additions Contract Year;

(iii) during each succeeding 2003 Capacity Additions Contract Year, the 2003 Capacity Additions Ongoing Guaranteed Availability for such 2003 Capacity Additions Contract Year shall be equal to the average 2003 Capacity Additions Actual Availability during the previous two 2003 Capacity Additions Contract Years; provided that

(iv) the 2003 Capacity Additions Ongoing Guaranteed Availability shall not be less than the average availability of equipment similar to

the 2003 Capacity Additions as then reported in the North American Electric Reliability Council Generator Availability Data System.

8.3.3.2. 2003 Capacity Additions Performance Tests: HPP shall conduct an annual 2003 Capacity Additions Performance Test within sixty (60) days prior to the beginning of each 2003 Capacity Additions Contract Year (the "Annual 2003 Capacity Additions Performance Test"). In addition, Tampa shall have the option, upon thirty (30) days prior notice to HPP, to require one additional 2003 Capacity Additions Performance Test at any time during the 2003 Capacity Additions Contract Year (an "Optional 2003 Capacity Additions Performance Test"). The 2003 Capacity Additions Capacity Charge shall be adjusted, based upon the results of any such Annual 2003 Capacity Additions Performance Test unless and until an Optional 2003 Capacity Additions Performance Test is conducted. If an Optional 2003 Capacity Additions Performance Test is conducted, the 2003 Capacity Additions Capacity Charge shall be adjusted based on such Optional 2003 Capacity Additions Performance Test. Notwithstanding the preceding two sentences, if, at HPP's option, another 2003 Capacity Additions Performance Test (a "2003 Capacity Additions Retest") is conducted within thirty (30) days of such Annual or Optional 2003 Capacity Additions Performance Test, the 2003 Capacity Additions Capacity Charge shall not be adjusted until such Retest is conducted. In the case of a 2003 Capacity Additions Retest, the 2003 Capacity Additions Capacity Charge shall be adjusted based on the results of the 2003 Capacity Additions Retest and the immediately preceding 2003 Capacity Additions Performance Test, whichever would result in the higher 2003 Capacity Additions Capacity Charge. Thereafter, HPP may request an additional 2003 Capacity Additions Retest at any time upon thirty (30) days prior written notice to Tampa and the 2003 Capacity Additions Capacity Charge shall thereafter be adjusted based on the results of the 2003 Capacity Additions Retest and the 2003 Capacity Additions Performance Test performed immediately prior to such Retest, whichever would result in the higher 2003 Capacity Additions Capacity Charge.

8.3.3.3. Normalization of Tests and Data: Calculation of electrical capacity, heat rate and availability of the 2003 Capacity Additions for purposes of the 2003 Capacity Additions Ongoing Performance Guarantees shall conform with the following:

(a) 2003 Capacity Additions Performance Tests: 2003 Capacity Additions Performance Tests shall be conducted in accordance with Prudent Utility Practice and the results of all 2003 Capacity Additions Performance Tests shall be corrected according to Appendix CC.

(b) Availability: Determinations of availability shall be adjusted to compensate for outages and degradations of performance due to Force Majeure or to failure of equipment that causes a continuous unit outage of more than thirty (30) days for reasons other than gross negligence or willful misconduct of HPP or the Operating Agent.

8.3.3.4. Calculation of Adjustment: Any such adjustments of the 2003 Capacity Additions Capacity Charge shall take effect as of the Delivery Month next following the month in which a 2003 Capacity Additions Performance Test is performed on which such adjustment is based; provided that, effective with the first Delivery Month of each successive 2003 Capacity Additions Contract Year, adjustments shall be recalculated based on the previously applicable 2003 Capacity Additions Performance Test results, as applied to the 2003 Capacity Additions Ongoing Performance Guarantees in effect for such new 2003 Capacity Additions Contract Year. All adjustments shall be based upon the difference between the actual performance of the 2003 Capacity Additions and the 2003 Capacity Additions Ongoing Performance Guarantees, as determined by the testing procedures set forth in Section 8.3.3.2 above, for the following specific items:

(a) 2003 Capacity Additions Net Electrical Output: If the 2003 Capacity Additions Actual Net Electrical Output is less than the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output, HPP shall reduce the 2003 Capacity Additions Capacity Charge by two tenths of one percent (.2%) for each percentage point, with portions of a percentage point prorated, that the 2003 Capacity Additions Actual Net Electrical Output is less than the 2003 Capacity Additions Ongoing Guaranteed Net Electrical Output.

(b) 2003 Capacity Additions Net Heat Rate: If the 2003 Capacity Additions Actual Net Heat Rate differs from the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate, then HPP shall adjust the 2003 Capacity Additions Capacity Charge by two tenths of one percent (.2%) for each percentage point, with portions of a percentage point prorated, that the 2003 Capacity Additions Actual Net Heat Rate differs from the 2003 Capacity Additions Ongoing Guaranteed Net Heat Rate.

(c) 2003 Capacity Additions Availability: If the 2003 Capacity Additions Actual Availability during the previous 2003 Capacity Additions Contract Year was less than the 2003 Capacity Additions Ongoing Guaranteed Availability during such 2003 Capacity Additions Contract Year, then HPP shall reduce the 2003 Capacity Additions Capacity Charge by two tenths of one percent (0.2%) for each percentage point, with portions of a percentage point prorated, that the 2003 Capacity Additions Actual Availability was less than the 2003 Capacity Additions Ongoing Guaranteed Availability. Notwithstanding any provision of this Section 8.3.3, the 2003 Capacity Additions Actual Availability shall be calculated annually and shall not be recalculated as the result of any 2003 Capacity Additions Performance Test.

(d) Basis of Adjustments: Adjustments pursuant to this Section 8.3.3.4 shall be based on the 2003 Capacity Additions Capacity Charge in effect on the later of (a) the 2003 Capacity Additions Commercial Operation Date or (b) the end of the 2003 Capacity Additions Correction Period. During the 2003 Capacity Additions Correction Period, any adjustment shall be estimated based on

the 2003 Capacity Additions Capacity Charge then in effect and shall be true-up in connection with the regular monthly billing immediately following the end of the 2003 Capacity Additions Correction Period.

(e) Limitation of Adjustments:

(i) Deadband: The 2003 Capacity Additions Capacity Charge shall not be adjusted pursuant to (a), (b) or (c) above if the difference between the guaranteed value and the actual value in such paragraph is less than two and one half percent (2.5%).

(ii) Maximum Adjustment: The Monthly Capacity Charge, as adjusted pursuant to this Section 8.3.3.4, shall not be reduced below an amount equal to one hundred percent (100%) of the greater of (a) the sum of (i) monthly principal and interest due with respect to all indebtedness incurred by HPP to finance the 2003 Capacity Additions, and (ii) property taxes and insurance with respect to the 2003 Capacity Additions, or (b) the amount necessary for HPP's net income before taxes with respect to the 2003 Capacity Additions, determined in accordance with generally accepted accounting principles, to be zero.

8.3.3.5. Uncompensated Failure to Meet 2003 Capacity Additions Ongoing Performance Guarantees: If the 2003 Capacity Additions Capacity Charge reduction as calculated pursuant to Section 8.3.3.4(a), (b) and (c) is greater than the actual reduction permitted as the result of the limits applicable pursuant to Section 8.3.3.4(e) for any thirty-six (36) consecutive Delivery Months, Tampa may, upon 120 days written notice to HPP purchase the property and rights described in Section 11.3 in accordance with the provisions of such section, unless within forty-five (45) days after such notice HPP pays to Tampa the aggregate deficiency between such calculated and actual charges during such thirty-six (36) months with interest calculated at the rate in Section 6.2.

8.3.3.6 Limited Remedies: Any adjustment made in the 2003 Capacity Additions Capacity Charge in accordance with this Section 8.3.3 shall, except as provided in Section 8.3.3.5, be Tampa's sole remedy for any failure to fulfill the 2003 Capacity Additions Ongoing Performance Guarantees under this Section 8.3.3 and such failure alone shall not be an Event of Default under this Agreement.

8.3.4. Maintenance Planning and Budgeting: By September 1 of each 2003 Capacity Additions Contract Year, HPP shall propose the 2003 Capacity Additions maintenance activities and associated maintenance budgets for the following 2003 Capacity Additions Contract Year. The Operating Committee shall, by October 15 of each 2003 Capacity Additions Contract Year, agree to and jointly approve the major maintenance activities and associated maintenance budgets for the following 2003 Capacity Additions Contract Year. Tampa shall not unreasonably withhold such approval. The agreed upon activities shall then

become the planned maintenance for the 2003 Capacity Additions for such 2003 Capacity Additions Contract Year.

Section 8.3 Supply and Transportation – Section 8.3 of the Tampa Agreement shall be renumbered Section 8.4 and amended to read as follows:

8.4 Fuel Supply and Transportation: HPP shall arrange for supply and transport of fuel for the CT/CC Facilities and the 2003 Capacity Additions in accordance with Prudent Utility Practice, which arrangements HPP believes in good faith to be the most suitable considering the total use of the Hardee Power Station. Under current market conditions, it is anticipated that natural gas delivered to the Site by pipeline, which may be on an interruptible basis, will be the primary fuel and that distillate fuel oil delivered to the Site by truck will be used as the alternate fuel in the event of unavailability of gas supply. In the event HPP arranges gas supply and transport which is partially or totally on a firm basis, the Parties shall, prior to the execution of the agreements reflecting such arrangements, negotiate an equitable sharing of the associated costs in proportion to the benefits projected to be derived by Tampa from such firm arrangements.

8.4.1 Cost of Gas Lateral: If such gas supply and transport arranged by HPP requires construction of a lateral pipeline from another pipeline to the Site, HPP shall be entitled to an equitable adjustment of the Monthly CT/CC Capacity Charge or the 2003 Capacity Additions Capacity Charge, as applicable, pursuant to Section 6.4.8.

Section 8.4 Compliance with Law – Section 8.4 of the Tampa Agreement shall be renumbered Section 8.5 and amended to read as follows:

8.5 Compliance with Law: HPP shall at all times conform to all applicable laws, ordinances, rules and regulations, the non-conformance with which could materially affect HPP's performance under this Agreement. HPP shall give all required notices, shall procure and maintain all governmental permits, licenses and inspections necessary for its performance of this Agreement.

ARTICLE IX.

AMENDMENTS RELATED TO EVENTS OF DEFAULT

Section 9.1 Rights of Lenders – Section 9.3 of the Tampa Agreement shall be amended to read as follows:

9.3 Rights of Lenders: HPP may encumber by mortgage or other proper instrument, its interest in the CT/CC Facilities and the 2003 Capacity

Additions, as appropriate given the context, and in the Tampa Agreement in order to finance the construction and operations of the CT/CC Facilities and the 2003 Capacity Additions. The execution of any mortgage, or other instrument, or the foreclosure thereof, or any sale thereunder, either by judicial proceedings or by virtue of any power reserved in such mortgage or indebtedness, or the exercising of any right, power or privilege reserved in any mortgage or other instrument, shall not be held as a violation of any of the terms and conditions hereof (and is hereby expressly permitted by Tampa), or as an assumption by the holder of such indebtedness (the "Lender") personally of the obligations under the Tampa Agreement (and the liability of such Lender shall be limited to the interest of such Lender in the CT/CC Facilities and/or the 2003 Capacity Additions, as appropriate given the context). No such encumbrance, foreclosure, conveyance or exercise of right shall relieve HPP from its liability under this Agreement. If HPP shall encumber its interest in all or any part of the CT/CC Facilities or the 2003 Capacity Additions or this Agreement, and if HPP or any Lender shall give notice to Tampa of the existence thereof and the address of such Lender, then Tampa will mail and deliver to such Lender, at such address, a duplicate copy of all notices of default and any other material notice that Tampa may, from time to time, give to or serve on HPP under and pursuant to the terms and provisions hereof. Such notice shall not be effective as to the Lender until given to it in accordance with these provisions. Such copies shall be mailed or delivered to such Lender at, or as near as possible to, the same time such notices are given to or served on HPP. Such Lender may, at its option, at any time before the rights of HPP shall be terminated as provided herein, pay any amounts due hereunder or do any act or thing required by HPP by the terms of this Agreement, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions of this Agreement, or prevent the exercise by Tampa of its rights pursuant to Section 8.2.1.1, 8.2.3.5, 8.3.1.1, 8.3.3.5, 9.2, 10.1.3 or 11.2 of this Agreement. All payments so made, and all things so done or performed by such Lender shall be as effective to prevent a termination of the rights of HPP under this Agreement as the same would have been if done and performed by HPP.

ARTICLE X

AMENDMENTS TO OPTIONS

Section 10.1 2003 Capacity Additions – Section 10.2 of the Tampa Agreement shall be amended to read as follows:

10.2 2003 Capacity Additions:

10.2.1 HPP and Tampa Options: The Parties acknowledge that Tampa has exercised its option to construct the 2003 Capacity Additions as provided in this Section 10.2.1. HPP shall construct the first phase of the 2003 Capacity

Additions, which shall consist of the CT 2B and is scheduled to be in service by May 15, 2000. Tampa shall exercise its option to require HPP to construct the remaining facilities of the 2003 Capacity Additions by written notice to HPP which shall be provided to HPP prior to December 1, 2000 and shall specify a scheduled in-service date for such remaining facilities of no later than June 1, 2003. In the event that Tampa has not provided such written notice to HPP by December 1, 2000, Tampa's option to require HPP to construct the remaining facilities of the 2003 Capacity Additions shall be deemed to be waived, effective as of December 1, 2000. If such written notice is provided by Tampa to HPP prior to December 1, 2000 but the first phase of the 2003 Capacity Additions is not placed in service prior to June 1, 2003, Tampa's option to require HPP to construct the remaining facilities of the 2003 Capacity Additions shall be deemed to be waived, effective as of June 1, 2003. In either case, upon the effective date of such waiver, neither Tampa nor HPP shall object to any request made by Seminole to any Governmental Authority, including the FDEP, to utilize the incremental capacity represented by the remaining facilities of the 2003 Capacity Additions (other than the CT 2B) pursuant to any regulatory authorization issued by such Governmental Authority so long as such request does not have an adverse impact on existing facilities or the CT 2B or their operation. In the event that Seminole utilizes the incremental capacity represented by such remaining facilities, the HPS Shared Common Facilities Capacity Charge Adjustment, the HPS Site Common Facilities Energy Charge and the HPS Plant Common Facilities Energy Charge payable by Tampa shall be equitably adjusted as provided for in Section 6.4.9.4.

Section 10.2 CC 2 Efficiency Rights Option: Section 10.2.2.1 of the Tampa Agreement shall be amended to read as follows:

10.2.2.1 CC 2 Efficiency Rights Option: In the event that Tampa elects to construct the second phase of the 2003 Capacity Additions, HPP shall make available to Seminole by written notice an option to acquire rights to the improved fuel efficiency of the portion of the capacity of the CC 2 to which Seminole's purchase rights are to apply (the "CC 2 Efficiency Rights"). The written notice shall include a firm monthly capacity charge and an estimated monthly energy charge reflecting the CC 2 Efficiency Rights. Such estimated energy charges shall include itemization of the components of such charges, including fuel cost, fixed and variable operations and maintenance cost, and administrative and general costs, including TECO Energy allocated costs as set forth in Appendix S. Within ninety (90) days of such notice from HPP, Seminole shall exercise such option or be deemed to have waived it. If Seminole elects to purchase the CC 2 Efficiency Rights, the Parties shall enter into an amendment to this Agreement, or at the request of HPP, an additional agreement in form and substance reasonably satisfactory to Seminole, making such purchase subject to

conditions precedent and on terms substantially equivalent to those of Seminole's rights in CC 1.

Section 10.3 Option to Purchase – Section 10.3.1 of the Tampa Agreement shall be amended to read as follows:

10.3 Option to Purchase:

10.3.1. Option: Tampa may, at its option, purchase as of January 1, 2013, all or part of the CT/CC Facilities and the 2003 Capacity Additions. Tampa shall exercise such option by providing written notice to HPP on or before January 21, 2008, and if Tampa has not exercised such option by such date, such option shall be deemed to have been waived. If Tampa purchases all of the generating facilities on the Site owned by HPP, the purchase shall include the HPS Shared Common Facilities. If Tampa purchases less than all such generating facilities, the purchase shall include an undivided interest in such HPS Shared Common Facilities in an amount as will result, after the sale, in Tampa owning a percentage of the HPS Site Common Facilities equal to its percentage of nominal capacity in the Hardee Power Station and a percentage of the HPS Plant Common Facilities equal to Tampa's percentage of nominal capacity in HPS #1 and #2. Tampa, or its successor in interest, shall negotiate with other owners of the Hardee Power Station any modifications to the Monthly Capacity Charge, ground lease rentals, Monthly Energy Charge and other related expenses and arrangements included in or related to this Agreement equitably necessary to reflect and allow the new division of use of the Site and the facilities thereon. In no event shall Tampa's exercise of this option change Seminole's priority rights in the CC 1.

Section 10.4 Capital Additions – Section 10.4 of the Tampa Agreement shall be amended to read as follows:

10.4 Capital Additions: In the event that, during the term of this Agreement, the Parties agree to make modifications to the CT/CC Facilities or the 2003 Capital Additions that require capital additions, the Monthly CT/CC Capacity Charge and/or the 2003 Capacity Additions Capacity Charge, as applicable, shall be equitably adjusted in accordance with Section 6.4.8. If the Parties do not agree with respect to a capital addition, HPP at its option may, or Tampa may at its option require HPP to make such modification to the CT/CC Facilities or the 2003 Capital Additions, provided that such modification shall not interfere with the operation of such Facilities or such Additions in any material way, and further provided that the Monthly CT/CC Capacity Charge and/or the 2003 Capacity Additions Capacity Charge shall be equitably adjusted in accordance with Section 6.4.8 to impose upon the Party requiring such modification the entire cost.

ARTICLE XI.

AMENDMENTS TO CONDITIONS PRECEDENT

Section 11.1 Purchase of CT/CC Facilities and 2003 Capacity Additions – Section 11.3

shall be amended to read as follows:

11.3 Purchase of CT/CC Facilities and 2003 Capacity Additions: In connection with the purchase of the CT/CC Facilities and the 2003 Capacity Additions by Tampa pursuant to Sections 8.2.1.1, 8.2.3.5, 10.1.3 and 11.2, the following provisions shall apply:

(a) If Tampa has not acquired purchase rights under Section 10.3.1 and HPP by January 21, 2008 has constructed or entered into material binding commitments to construct all or part of the 2003 Capacity Additions and the commercial operation date of the second phase of the 2003 Capacity Additions is reasonably expected to occur on or before January 1, 2013, Tampa's purchase option shall be limited to the CC 1.

(b) If Tampa purchases all the generating facilities on the site owned by HPP, the purchase shall include all appurtenant common and supporting facilities used and useful in connection with the operation of the CT/CC Facilities and the 2003 Capacity Additions. If Tampa purchases less than all such generating facilities, the purchase shall include an undivided interest (proportional to the share of the capacity in HPS #1 and #2 Tampa is then purchasing) in common and supporting facilities in such amount as will result, after the sale, in Tampa owning a percentage of the HPS Site Common Facilities equal to its percentage of nominal capacity in the Hardee Power Station and a percentage of the HPS Plant Common Facilities equal to Tampa's percentage of nominal capacity in HPS #1 and #2. Tampa, or its successor in interest, shall negotiate with other owners of the Hardee Power Station, or their successor in interest, any modifications to the Monthly Capacity Charge, ground lease rentals, Monthly Energy Charge and other related expenses and arrangements included in or related to this Agreement equitably necessary to reflect and allow the new division of use of the Site and the facilities thereon.

(c) The purchase price for such property and rights shall be the greater of (i) the Fair Market Value of such property and (ii) the sum of all outstanding principal, interest and other amounts payable to Lenders in respect of debt incurred by HPP to finance the construction of the CT/CC Facilities and the 2003 Capacity Additions plus, except in the case of a purchase pursuant to Section 8.2.3.5 or Section 8.3.3.5, the amount of any unreimbursed eligible costs paid or incurred by HPP with respect to the CT/CC Facilities or the 2003 Capacity Additions. Eligible costs shall mean those amounts that would be reimbursed or paid from the proceeds of 100% project financing of either the CT/CC Facilities or the 2003 Capacity Additions, as appropriate given the context, to the extent

that such Facilities or Additions were completed on schedule and in conformance with the Performance Guarantees. Such price may be payable, to the extent permitted by the applicable instruments, by assumption of the debt, with the balance payable in cash.

(d) In connection with such purchase, Tampa shall be entitled to all rights of HPP and assume the obligations of HPP under all outstanding agreements relating to the CT/CC Facilities and the 2003 Capacity Additions, including without limitation, the Seminole Agreement.

(e) HPP shall deliver to Tampa and Tampa shall deliver to HPP and any Lender any and all documents and instruments necessary to reflect such assignment and assumption under the foregoing paragraphs or make other arrangements reasonably required by HPP with respect to the indebtedness.

ARTICLE XII.

FORCE MAJEURE AND INDEMNIFICATION

12.1 Force Majeure and Indemnification – The following Section 12.1.1 shall be added to the Tampa Agreement as follows:

12.1.1 Force Majeure: For purposes of Section 12.1 of the Tampa Agreement, a delay in the approval by the FDEP of the modification of the conditions of certification required prior to commencing construction of the first phase of the 2003 Capacity Additions shall constitute Force Majeure.

ARTICLE XIII.

EFFECTIVE DATE

Section 13.1 Effective Date – This Fourth Amendment shall be effective on the later to occur of (i) the date on which this Fourth Amendment and the Fourth Amendment to the Seminole Agreement are accepted for filing by the FERC and allowed to become effective and (ii) the date on which the Fourth Amendment to the Seminole Agreement is approved by the Administrator of the Rural Utilities Service, provided, however, that if the FERC does not accept this Fourth Amendment and/or the Fourth Amendment to the Seminole Agreement for filing without change or condition and HPP determines that the change or condition imposed or

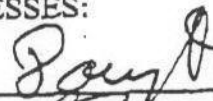
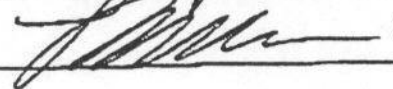
that may be imposed by the FERC would prevent HPP from securing long-term, limited-recourse debt financing of the CT 2B on terms and conditions reasonably acceptable to HPP, HPP shall have the right to terminate this Fourth Amendment and the Fourth Amendment to the Seminole Agreement upon twenty (20) days prior written notice to Tampa and Seminole.

[Signatures on next page]

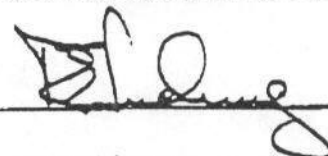
IN WITNESS WHEREOF, the Parties hereto have caused this Fourth Amendment to the Tampa Agreement to be executed by their fully authorized officers, and copies delivered to each party, as of the first day above written.

HARDEE POWER I, INC.
acting as General Partner of
HARDEE POWER PARTNERS LIMITED

WITNESSES:

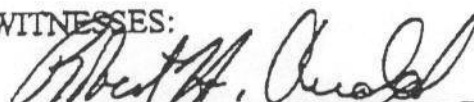
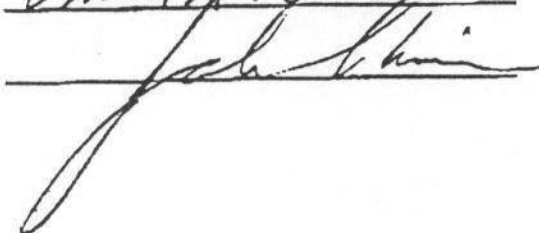
By:



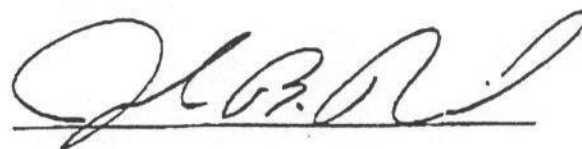
Title: President

TAMPA ELECTRIC COMPANY

WITNESSES:

By:



Title: President

APPENDIX F

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

1993 Non-Coal Facilities

COMBUSTION TURBINE
FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Costs" excluding fuel, identified in Section 6.5.1 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance Associated With 1993 Non-Coal Facilities (Sum of Lines 1 Through 14; See Note 4)		

16 Percent Allocable to Tampa: 40% for all accounts except Account 550. See Note 2 for Account 550 percentage.

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE TO TAMPA FOR 1993 Non-Coal Facilities (Line 15 x Line 16).

Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 2: Resources 03 and 33. Tampa's allocation for the portion of this account that is for the annual site lease costs is 59.77%. Tampa's allocation for the remaining portion of this account shall be 40%.

Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 4: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the CT unit (provided that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded). These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX G

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

1993 Non-Coal Facilities

COMBUSTION TURBINE VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Costs" excluding fuel, identified in Section 6.5.1 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance Associated With 1993 Non-Coal Facilities (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance For 1993 Non-Coal Facilities (Appendix F, Line 15)	

- 17 Total Variable Operation & Maintenance For 1993 Non-Coal Facilities (Line 15 - Line 16)
- 18 Operation & Maintenance Allocated to Off-System Sales
- 19 Total Variable O&M For 1993 Non-Coal Facilities To Be Allocated (Line 17 - Line 18)
- 20 Energy Generated by the CT Unit for Tampa During the Previous Twelve Month Period Ending With the Delivery Month
- 21 Total Energy Generated By the CT Unit During the Previous Twelve Month Period Ending With the Delivery Month
- 22 Energy Generated by the CT Unit for Off-System Sales During the Previous Twelve Month Period Ending With the Delivery Month
- 23 Total Net Energy Generated By the CT Unit Exclusive of Energy Generated for Off-System Sales (Line 21 - Line 22)
- 24 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 20 divided by Line 23)
- 25 Total Variable O&M Allocable to Tampa Associated With Tampa's Sales of Schedules A and B Interchange Service
- 26 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA FOR 1993 Non-Coal Facilities ((Line 19 x Line 24) + Line 25)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the CT unit (provided that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs and the Variable Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs and the Variable Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded). These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX H

**AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN**

**HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)**

AND

TAMPA ELECTRIC COMPANY

**COMBUSTION TURBINE
ADMINISTRATIVE AND GENERAL EXPENSES**

For purposes of this Agreement, the "Delivery Month Administrative and General Expenses Allocated to the CT Unit," identified in Section 6.5.1 (d) shall be determined as follows:

<u>Line</u>	<u>Description</u>
1	920-932 Administrative & General Expenses
2	Less: Production Property Insurance Included in Account 924
3	920-932 Administrative & General Expenses Excluding Production Property Insurance (Line 1 - Line 2) (See Note 1)
4	CT Unit MW Capacity
5	Total CT/CC Facilities MW Capacity
6	Percent Allocable to CT Unit (Line 4 divided by Line 5)
7	A&G Allocable to CT Unit (Line 3 x Line 6)
8	Percent Allocable to Tampa: 40% Commencing on the 2003 Capacity Additions Energy Charge Effective Date, percentage allocable to Tampa: 59.77%
9	A&G Expense Allocable to Tampa (Line 7 x Line 8)

Note 1: Included only those expenses directly charged to the CT/CC Facilities, the 2003 Capacity Additions and Allocable Costs from TECO Energy, Inc. per Appendix S. Administrative and General services by TECO Energy subsidiaries will be provided at cost. Direct charges shall include only those expenses which provide a benefit to the CT/CC Facilities and the 2003 Capacity Additions. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from

TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX J

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

1993 Non-Coal Facilities

COMBINED CYCLE FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Costs" excluding fuel, identified in Section 6.5.2 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance Associated With 1993 Non-Coal Facilities (Sum of Lines 1 Through 14; See Note 4)		
16	Percent Allocable to Tampa: 40%. See Note 2 for Account 550 percentage.		

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE
TO TAMPA FOR 1993 Non-Coal Facilities (Line 15 x Line 16)

- Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.
- Note 2: Resources 03 and 33. Tampa's allocation for the portion of this account that is for the annual site lease costs is 59.77%. Tampa's allocation for the remaining portion of this account shall be 40%.
- Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.
- Note 4: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the CC 1 (provided that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded). These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX K

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

1993 Non-Coal Facilities

COMBINED CYCLE VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Costs" excluding fuel, identified in Section 6.5.2 (b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance Associated With 1993 Non-Coal Facilities (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance For 1993 Non-Coal Facilities (Appendix J, Line 15)	

- 17 Total Variable Operation & Maintenance For 1993 Non-Coal Facilities (Line 15 - Line 16)
- 18 Operation & Maintenance Allocated to Off-System Sales
- 19 Total Variable O&M For 1993 Non-Coal Facilities To Be Allocated (Line 17 - Line 18)
- 20 Energy Generated by the CC 1 for Tampa During the Previous Twelve Month Period Ending With the Delivery Month
- 21 Total Energy Generated By the CC 1 During the Previous Twelve Month Period Ending With the Delivery Month
- 22 Energy Generated by the CC 1 for Off-System Sales During the Previous Twelve Month Period Ending With the Delivery Month
- 23 Total Net Energy Generated By the CC 1 Exclusive of Energy Generated for Off-System Sales (Line 21 - Line 22)
- 24 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 20 divided by Line 23)
- 25 Total Variable O&M Allocable to Tampa Associated With Tampa's Sales of Schedules A and B Interchange Service
- 26 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA FOR 1993 Non-Coal Facilities ((Line 19 x Line 24) + Line 25)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the CC 1 (provided that, upon the earlier to occur of (x) the HPS #3 Energy Charge Effective Date and (y) the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs and the Variable Operation and Maintenance Costs associated with the HPS Site Common Facilities shall be excluded and, upon the occurrence of the 2003 Capacity Additions Energy Charge Effective Date, the Fixed Operation and Maintenance Costs and the Variable Operation and Maintenance Costs associated with the HPS Plant Common Facilities shall be excluded). These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX L

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

COMBINED CYCLE ADMINISTRATIVE AND GENERAL EXPENSES

For purposes of this Agreement, the "Delivery Month Administrative and General Expenses Allocated to the Combined Cycle Units," identified in Section 6.5.2 (d) shall be determined as follows:

<u>Line</u>	<u>Description</u>
1	920-932 Administrative & General Expenses
2	Less: Production Property Insurance Included in Account 924
3	920-932 Administrative & General Expenses Excluding Production Property Insurance (Line 1 – Line 2) (See Note 1)
4	Combined Cycle Units' MW Capacity
5	Total CT/CC Facilities MW Capacity
6	Percent Allocable to Combined Cycle Units (Line 4 divided by Line 5)
7	A&G Allocable to Combined Cycle Units (Line 3 x Line 6)
8	Percent Allocable to Tampa: 40% Commencing on the 2003 Capacity Additions Energy Charge Effective Date, percentage allocable to Tampa: 59.77%
9	A&G Expense Allocable to Tampa (Line 7 x Line 8)

Note 1: Included only those expenses directly charged to the CT/CC Facilities, the 2003 Capacity Additions and Allocable Costs from TECO Energy, Inc. per Appendix S. Administrative and General services by TECO Energy subsidiaries will be provided at cost. Direct charges shall include only those expenses which provide a benefit to the CT/CC Facilities and the 2003 Capacity Additions. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, in no event shall such expenses

include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX U

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

REPLACEMENT OF COMBINED CYCLE PROPERTY UNITS EXPENSE

For purposes of this Agreement, the "Delivery Month Fixed Charges for Replacement Property Units" identified in Section 6.5.2 (c) shall be determined as follows:

<u>Line</u>	<u>Description</u>
1	Expenditures (Net of Salvage Value) for Replacement of Property Units of the CC 1 - Current Month (Note 1)
2	Expenditures for Replacement of Property Units from Inception of Agreement to End of Prior Month (Per Prior Bill - Line 3)
3	Cumulative Expenditures for Replacement of Property Units of the CC 1 from Inception of Agreement to End of Current Month (Line 1 + 2)
4	Fixed Charge Rate (14.67% Annually/12): 1.222%
5	Current Month Fixed Charges for Property Units Replaced on the CC 1 (Line 3 x Line 4)
6	Percent Allocable to Tampa: 40%
7	Delivery Month Fixed Charges for Property Units Replaced on the CC 1 and Allocable to Tampa (Line 5 x Line 6)

Note 1: Includes only those capitalized expenditures for the replacement of property units which existed, per design specifications, on the date that the CC 1 in question was placed in commercial operation, or as subsequently modified by mutual agreement of the Parties or as otherwise determined by the Operating Committee from time to time. HPP shall define the property units and submit such definitions to the Operating Committee for review and approval.

APPENDIX V

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
 BETWEEN
 HARDEE POWER PARTNERS LIMITED
 (ASSIGNEE OF TECO POWER SERVICES CORPORATION)
 AND
 TAMPA ELECTRIC COMPANY

HPS PLANT COMMON FACILITIES

FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Costs associated with the utilization of the HPS Plant Common Facilities" excluding fuel, identified in Section 6.5.5 shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance Associated with HPS Plant Common Facilities (Sum of Lines 1 Through 14; See Note 4)		
16	Percent Allocable to Tampa: 59.77%.		

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE
TO TAMPA FOR HPS PLANT COMMON FACILITIES (Line 15 x Line 16)

- Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.
- Note 2: Resources 03 and 33.
- Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.
- Note 4: Amounts in lines 1 through 14 shall include only those direct expenses associated with the HPS Plant Common Facilities. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX W

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN

HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)

AND

TAMPA ELECTRIC COMPANY

HPS PLANT COMMON FACILITIES

VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Costs associated with the utilization of the HPS Plant Common Facilities" excluding fuel, identified in Section 6.5.5 shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance Associated With HPS Plant Common Facilities (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance Associated With HPS Plant Common Facilities (Appendix V, Line 15)	

- 17 Total Variable Operation & Maintenance Associated With HPS Plant Common Facilities To Be Allocated (Line 15 - Line 16)
- 18 Energy Generated for Tampa from HPS #1 and #2 During the Previous Twelve Month Period Ending With the Delivery Month
- 19 Total Energy Generated from HPS #1 and #2 During the Previous Twelve Month Period Ending With the Delivery Month
- 20 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 18 divided by Line 19)
- 21 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA FOR HPS PLANT COMMON FACILITIES (Line 17 x Line 20)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses associated with the HPS Plant Common Facilities. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX X

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN

HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)

AND

TAMPA ELECTRIC COMPANY

HPS SITE COMMON FACILITIES

FIXED OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Costs associated with the utilization of the HPS Site Common Facilities" excluding fuel, identified in Section 6.5.3 shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 3
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 2
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	All Resources
8	553	Maintenance of Generation & Electric Plant	See Note 3
9	554	Maintenance of Misc. Other Power Generation	See Note 3
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	All Resources
13	570	Maintenance of Station Equipment	See Note 3
14	571	Maintenance of Overhead Lines	See Note 3
15	Total Delivery Month Fixed Operation and Maintenance Associated with HPS Site Common Facilities (Sum of Lines 1 Through 14; See Note 4)		

16 Percent Allocable to Tampa commencing on the 2003 Capacity Additions Energy Charge Effective Date: 53.18%.

Percent Allocable to Tampa commencing on the HPS #3 Energy Charge Effective Date: 37.82%.

17 TOTAL FIXED OPERATION AND MAINTENANCE EXPENSE ALLOCABLE TO TAMPA FOR HPS SITE COMMON FACILITIES (Line 15 x Line 16)

Note 1: Resources 00, 01, 02, 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 2: Resources 03 and 33.

Note 3: Resources 00, 01, 02 (except overtime payroll), 04, 08, 09, 10, 14, 15, 18, 37, 39, and 47.

Note 4: Amounts in lines 1 through 14 shall include only those direct expenses associated with the HPS Site Common Facilities. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX Y

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY
HPS SITE COMMON FACILITIES

VARIABLE OPERATION AND MAINTENANCE COST

For purposes of this Agreement, the "Delivery Month Variable Operation and Maintenance Costs associated with the utilization of the HPS Site Common Facilities" excluding fuel, identified in Section 6.5.3 shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>
1	513	Maintenance of Electric Plant
2	546	Operation Supervision & Engineering
3	548	Generation Expense
4	549	Misc. Other Power Generation Expense
5	550	Rents
6	551	Maintenance Supervision & Engineering
7	552	Maintenance of Structures
8	553	Maintenance of Generation & Electric Equipment
9	554	Maintenance of Misc. Other Power Generation
10	555	Purchased Power
11	562	Station Expense
12	569	Maintenance of Structures (Transmission)
13	570	Maintenance of Station Equipment
14	571	Maintenance of Overhead Lines
15	Total Operation and Maintenance Associated With HPS Site Common Facilities (Lines 1 Through 14; See Note 1)	
16	Less: Total Fixed Operation and Maintenance Associated With HPS Site Common Facilities (Appendix X, Line 15)	

- 17 Total Variable Operation & Maintenance Associated With HPS Site Common Facilities To Be Allocated (Line 15 - Line 16).
- 18 Energy Generated for Tampa from HPS #1 and #2 During the Previous Twelve Month Period Ending With the Delivery Month
- 19 Total Energy Generated from HPS #1 and #2 and HPS #3 During the Previous Twelve Month Period Ending With the Delivery Month
- 20 Percent of Energy Generated for Tampa During the Previous Twelve Months (Line 18 divided by Line 19)
- 21 TOTAL VARIABLE O&M ALLOCABLE TO TAMPA FOR HPS SITE COMMON FACILITIES (Line 17 x Line 20)

Note 1: Amounts in lines 1 through 14 shall include only those direct expenses associated with the HPS Site Common Facilities. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred.

APPENDIX Z

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

2003 CAPACITY ADDITIONS

For purposes of this Agreement, the "Delivery Month Fixed Operation and Maintenance Costs and Delivery Month Variable Operation and Maintenance Costs" excluding fuel, identified in Section 6.5.4(b) shall be determined as follows:

<u>Line</u>	<u>Account</u>	<u>Description</u>	<u>Resource</u>
1	513	Maintenance of Electric Plant	See Note 1
2	546	Operation Supervision & Engineering	See Note 1
3	548	Generation Expense	See Note 1
4	549	Misc. Other Power Generation Expense	See Note 1
5	550	Rents	See Note 1
6	551	Maintenance Supervision & Engineering	See Note 1
7	552	Maintenance of Structures	See Note 1
8	553	Maintenance of Generation & Electric Plant	See Note 1
9	554	Maintenance of Misc. Other Power Generation	See Note 1
10	555	Purchased Power	See Note 1
11	562	Station Expense	See Note 1
12	569	Maintenance of Structures (Transmission)	See Note 1
13	570	Maintenance of Station Equipment	See Note 1
14	571	Maintenance of Overhead Lines	See Note 1
15	Total Delivery Month Operation and Maintenance Associated with the 2003 Capacity Additions (Sum of Lines 1 Through 14; See Note 1)		
16	Percent Allocable to Tampa: 100%		

17

TOTAL OPERATION AND MAINTENANCE EXPENSE ALLOCABLE TO
TAMPA FOR THE 2003 CAPACITY ADDITIONS (Line 15 x Line 16)

Note 1:

Amounts in lines 1 through 14 shall include only those direct expenses which provide a benefit to the 2003 Capacity Additions. These expenses must be supportable by documentation such as invoices, monthly time sheets, and salary allocations (but only to the extent such salary allocations are reviewed on at least an annual basis.) These expenses may include charges from TECO Energy's associated companies, however, unless the price charged by such associated company was established through a bidding process, in no event shall such expenses include profits or markups to such associated companies other than associated payroll allocations of pension, benefits, taxes and insurance. Such charges from TECO Energy's associated companies shall be pursuant to written agreements with HPP and subject to acceptance by Tampa pursuant to the provisions of Section 7.4 of this Agreement.

The formula described above reflects the organizational structure, accounting policies, the capitalization and units of property policies, and the lease versus ownership practices currently in effect at the time this Agreement is entered into. If a material change occurs in any practice or policy that results in the above formula no longer reflecting accurately the costs recoverable pursuant to such formula as of the date of this Agreement, then the Operating Committee shall review and if required modify the formula to result in a just, fair and reasonable recovery of the actual expenses incurred. A description of resource codes currently in effect is provided in Appendix M.

APPENDIX AA

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNEE OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

REPLACEMENT OF 2003 CAPACITY ADDITIONS PROPERTY UNITS EXPENSE

For purposes of this Agreement, the "Delivery Month Fixed Charges for Replacement Property Units" identified in Section 6.5.4 (c) shall be determined as follows:

<u>Line</u>	<u>Description</u>
1	Expenditures (Net of Salvage Value) for Replacement of Property Units of the 2003 Capacity Additions – Current Month (Note 1)
2	Expenditures for Replacement of Property Units from Inception of Agreement to End of Prior Month (Per Prior Bill – Line 3)
3	Cumulative Expenditures for Replacement of Property Units of the 2003 Capacity Additions from Inception of Agreement to End of Current Month (Line 1 + 2)
4	Fixed Charge Rate (14.67% Annually/12): 1.222%
5	Current Month Fixed Charges for Property Units Replaced on the 2003 Capacity Additions (Line 3 x Line 4)
6	Percent Allocable to Tampa: 100%
7	Delivery Month Fixed Charges for Property Units Replaced on the 2003 Capacity Additions and Allocable to Tampa (Line 5 x Line 6)

Note 1: Includes only those capitalized expenditures for the replacement of property units which existed, per design specifications, on the date that the 2003 Capacity Additions was placed in commercial operation, or as subsequently modified by mutual agreement of the Parties or as otherwise determined by the Operating Committee from time to time. HPP shall define the property units and submit such definitions to the Operating Committee for review and approval.

APPENDIX BB

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY BETWEEN HARDEE POWER PARTNERS LIMITED (ASSIGNEE OF TECO POWER SERVICES CORPORATION) AND TAMPA ELECTRIC COMPANY

2003 CAPACITY ADDITIONS PERFORMANCE GUARANTEES

1. The 2003 Capacity Additions Performance Guarantees are as follows:

Operating Point	Guaranteed Net Electrical Output (KW)	Guaranteed Net Heat Rate (BTU/KWHR. LHV)
Base Load	82,444	10,677

2. Availability Calculation

The 2003 Capacity Additions Actual Availability shall be determined as follows:

$$\text{2003 Capacity Additions Actual Availability} = ([PH - (FOH + MOH + POH)] / PH) \times 100\%$$

Where:

PH is the number of clock hours in the period under consideration

FOH is the time in hours during which the unit was unavailable due to a forced (unplanned) outage, as adjusted pursuant to Section 8.3.3.3 (b).

MOH is the time in hours during which the unit was unavailable due to a maintenance outage.

POH is the time in hours during which the unit was unavailable due to a planned outage.

3. Basis for Performance Guarantees

The 2003 Capacity Additions Performance Guarantees listed in Section 1 of this Appendix are based on the scope of supply in the 2003 Capacity Addition Construction Contract and the following:

- 3.1. Natural Gas in compliance with General Electric's Process Specification for Fuel Gases For Combustion In Heavy-Duty Gas Turbines No GEI 41040F. Fuel temperature prior to the fuel gas heater at 50 degrees F and at the turbine skid at 90 degrees F.
- 3.2. Ambient Conditions at 59 degrees F, 14.64 psia, and 60% relative humidity.
- 3.3. Gas turbine is at steady state base load operation.
- 3.4. Gas turbine exhaust temperature is within 2 degrees F of the value specified by the control curve.
- 3.5. Generator gross output and unit auxiliary load are measured at 13.8 kV (the low side of the generator step-up transformer). Guaranteed Net Electrical Output and Guaranteed Net Heat Rate are calculated based on the measurement of generator gross output less unit auxiliary kilowatts power consumption ($P_{net} = P_{gross} - P_{aux}$). Fuel consumption is measured at the unit custody transfer meter.

AGREEMENT FOR SALE AND PURCHASE OF CAPACITY AND ENERGY
BETWEEN
HARDEE POWER PARTNERS LIMITED
(ASSIGNOR OF TECO POWER SERVICES CORPORATION)
AND
TAMPA ELECTRIC COMPANY

PROCEDURES FOR TESTING THE 2003 CAPACITY ADDITIONS

1. Simple Cycle Test Procedure

The test procedures for the 2003 Capacity Additions Performance Tests determining the 2003 Capacity Additions Commercial Operation Date will be based upon the American Society of Mechanical Engineers Power Test Code PTC-22-1997 "Gas Turbine Power Plants" ("PTC 22") with the following additions and/or exceptions. The figures in parenthesis refer to the relevant paragraph in PTC 22.

A. A valid test run will consist of thirteen (13) sets of instrument readings taken at five (5) minute intervals over a sixty (60) minute time span after steady state conditions have been established in accordance with PTC-22.

A test run shall be considered valid as long as the output and basis condition parameters do not deviate from the average over the test run by more than an amount to be mutually agreed by the parties as recommended by PTC-46.

The CT 2B will be considered to be in a steady state condition when turbine wheelspace temperatures do not change more than five (5) degrees F in fifteen minutes prior to the test point.

B. Speed measurements are required, and must be measured by an electronic tachometer or equal at the SPEEDTRONIC panel and averaged for the test run. Any corrections for frequency variations shall be applied to the calculation.

C. The average CT 2B gross electrical output is to be measured by polyphase watthour revenue meters at the generator terminals. Net electrical output will be the gross electrical output less the CT 2B auxiliary loads. Revenue quality metering to be provided by contractor.

D. Gas Turbine Exhaust temperature will be measured by the unit control thermocouples mounted in the exhaust plenum. (4.56) It is essential that the temperature indicating system be adjusted and calibrated in place with a known millivolt source prior to the test so that it reports reliable data. If more than 25 percent of the thermocouples are inoperative, the test shall not be valid.

E. When liquid-in-glass manometers are used, bores of smaller than 5/16" will be permitted. (4.59)

F. Barometric Pressure at the test site shall be measured with a precision mercury or aneroid barometer with an accuracy in accordance with PTC-22. A minimum reading accuracy of 0.01 in Hg is required. (4.65)

G. Not Used.

H. Fuel Consumption

Natural gas is to be measured in accordance with ASME or AGA standards. The upstream pressure will be measured with a precision test gage, the gas temperature with a thermometer or thermocouple.

Four (4) samples must be taken from the fuel system during the test for laboratory measurement of higher heating value and specific gravity.

Calculation of gas flow will be done in accordance with ASME or AGA standards as described in ASME PTC 19.5; 1972 or AGA Report #3.

I. Inlet air condition will be measured with at least four (4) thermometers or thermocouples installed.

J. Turbine exhaust static pressure at or near the turbine exhaust flange or other convenient location must be measured using at least two (2) disc type static pressure probes.

K. When the tests are performed, the gas turbine control system must be adjusted to operate at the correct average gas turbine exhaust temperature for the test conditions as defined by the appropriate control curve.

M. All instruments to be used in the 2003 Capacity Additions Performance Test shall be calibrated in the field and witnessed by the appropriate parties prior to such test.

2. Annual 2003 Capacity Additions Performance Tests

Testing to demonstrate 2003 Capacity Additions Ongoing Performance Guarantees subsequent to the 2003 Capacity Additions Commercial Operation Date will be performed using procedures which are mutually agreed upon by the Parties.

**Exhibit No. ____ (WLB-2),
Document No. 2**

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

(WLB-2)
DOCUMENT NO. 2
PAGE 1 OF 39
FILED: 11/1/99

99 SEP 15 PM 4:47
FEDERAL ENERGY
REGULATORY
COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Hardee Power Partners Limited

ER99- -000

PETITION OF HARDEE POWER PARTNERS LIMITED
FOR AN ORDER ACCEPTING RATES

I. INTRODUCTION

Pursuant to Rules 205 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.205 and 385.207 (1998), and Sections 35.12 and 35.13 of the Commission's Regulations, 18 C.F.R. §§ 35.12 and 35.13 (1998), Hardee Power Partners Limited ("HPP") submits this abbreviated rate filing in connection with amendments to two power sales agreements ("Third Amendments" or "Amendments") providing for the sale by HPP of electric capacity and associated energy to Seminole Electric Cooperative, Inc. ("Seminole") and Tampa Electric Company ("Tampa Electric") from the Hardee Power Station, the rates under which were previously accepted by the Commission.¹ The Amendments filed herein implement the provisions of the original agreements which contemplate the construction by Seminole of the Payne Creek Generating Station at the same site on which the Hardee Power Station is situated ("Site")² and reflect certain related changes in the rates under the power sale agreements pursuant to the terms of

¹ TECO Power Services Corporation, 53 FERC ¶ 61,202 (1990).

² The Site is a 465-acre parcel of land contiguous to the Tampa Electric service territory which has been leased by Acuera Corporation, a subsidiary of Seminole, to TECO Power Services Corporation ("Power Services"), HPP's predecessor in interest. See infra footnote 7 and accompanying text.

those agreements. The rate changes reflected within the Third Amendments affect the existing rates under the power sales agreements only with respect to the reallocation of various costs associated with certain common facilities on the Site, specifically the HPS Site Common Facilities.³ Since Seminole's utilization of the HPS Site Common Facilities will increase as a result of its construction of the Payne Creek Generating Station, its rates will increase solely to reflect the reallocation of the costs of these common facilities; conversely, since Tampa Electric's relative utilization of the HPS Site Common Facilities will decrease, its rates under its power sales agreement will decrease. As further described herein, HPP requests waiver of the Commission's 60-day notice requirement and an effective date of November 1, 1999.

Contemporaneously with the filing of this Petition, HPP is filing a second petition submitting amendments to the same two power sales agreements ("Fourth Amendments"). The Fourth Amendments implement the provisions of the power sales agreements under which Tampa Electric has exercised the option to require HPP to construct additional generation facilities, necessitating a reallocation of the costs of the HPS Site Common Facilities and the HPS Plant Common Facilities. In addition, the Fourth Amendment to the Tampa Electric power sales agreement sets forth the rates, terms, and conditions pursuant to which HPP will sell to Tampa Electric the capacity and associated energy from the additional generation to be built at the Hardee Power Station.

³ The HPS Site Common Facilities are the access roads, the cooling reservoir, the natural gas pipeline, the switchyard, the water wells, and pumps and the Site itself, all of which will be shared by the Hardee Power Station and the Payne Creek Generating Station. The Third Amendments to the Tampa Electric and Seminole Agreements submitted for filing herein involve a reallocation of the costs of the HPS Site Common Facilities.

II. COMMUNICATIONS

All service and correspondence concerning this Application should be addressed to:

Robert L. Daileader, Jr.
Karen Georgenson Gach
Nixon Peabody LLP
One Thomas Circle, N.W., Suite 700
Washington, D.C. 20005
(202) 457-5300

and

Linda A. Miller
Vice President
Hardee Power Partners Limited
702 North Franklin Street
Tampa, Florida 33602
(813) 228-1311

III. BACKGROUND

On January 18, 1990, TECO Power Services Corporation ("Power Services"), HPP's predecessor in interest, and Tampa Electric filed for approval of the rates under three power sales agreements in Docket No. ER90-164 ("January 18 Application"). The three agreements were (1) the Agreement for Sale and Purchase of Capacity and Energy between TECO Power Services Corporation and Seminole Electric Cooperative, Inc. (the "Seminole Agreement"); (2) the Agreement for Sale and Purchase of Capacity and Energy from the Hardee Power Station between TECO Power Services Corporation and Tampa Electric Company (the "Tampa Electric Agreement") ("collectively, the "Power Sales Agreements" or the "Agreements"); and (3) the Agreement for Sale and Purchase of Capacity and Energy from Big Bend Station Unit No. 4 ("BB4") between TECO Power Services Corporation and Tampa Electric Company (the "BB4

Agreement").⁴ The Power Sales Agreements and the BB4 Agreement form an integrated transaction in which HPP (1) has constructed, owns, and operates the Hardee Power Station;⁵ (2) sells for twenty years the capacity and energy produced by the Hardee Power Station to Seminole and Tampa Electric pursuant to the Seminole and Tampa Electric Agreements, respectively; and (3) purchases for ten years certain rights to 145 MW of capacity and energy from Tampa Electric for resale to Seminole pursuant to the BB4 Agreement. The agreements were initially developed in response to Seminole's 1988 request for proposals to provide 440 MW of back-up power to Seminole over a twenty-year period commencing January 1, 1993. These agreements were negotiated and finalized at the conclusion of that bidding program and represented at the time an innovative mix of new and existing generating capacity to meet the complementary capacity and energy needs of Seminole and Tampa Electric.

On November 19, 1990, the Commission accepted the three agreements for filing, finding that the costs of the Hardee Power Station, including the equity allowance, and the allocation of those costs between Seminole and Tampa Electric to be reasonable.⁶ The Commission designated the three agreements as follows: (1) the Seminole Agreement was designated as TECO Power Services, Inc., Rate Schedule FERC No. 1; (2) the Tampa Electric Agreement was designated as TECO Power Services, Inc., Rate Schedule FERC No. 2; and (3) the BB4 Agreement was designated as Tampa Electric Company, Rate Schedule FERC No. 33.

⁴ The BB4 Agreement provides for the sale by Tampa Electric to Power Services of an entitlement to 145 MW of capacity and energy from Tampa Electric's BB4 coal-fired facility for a ten-year period commencing on January 1, 1993.

⁵ The Hardee Power Station provides 295 MW of generating capacity, consisting of a 220 MW combined cycle unit ("CC 1") and a 75 MW combustion turbine ("CT 2A"), and uses natural gas as its primary fuel and No. 2 fuel oil as a back-up fuel. In the Amendments, these facilities are referred to as the CT/CC Facilities.

⁶ TECO Power Services Corporation, 53 FERC ¶ 61,202 at 61,811-13.

On December 21, 1990, Power Services filed with the Commission an application for authorization to transfer all of its rights, title, and interest in the Facility to HPP in order to facilitate financing of the Facility. The transfer of all project agreements and rights to develop the project was approved by the Commission in March 1991.⁷ The Seminole and Tampa Electric Agreements were redesignated Hardee Power Partners Limited, Rate Schedules FERC Nos. 1 and 2, respectively, by letter order dated May 23, 1991 in Docket No. ER91-372-000.⁸

IV. PARTIES TO THE TRANSACTION

A. Hardee Power Partners Limited

HPP is a Florida limited partnership of which Hardee Power I, Inc. ("Hardee Power I") is the sole general partner, and Hardee Power II, Inc. ("Hardee Power II") is the sole limited partner. Hardee Power I has a twenty-five percent ownership interest in HPP with Hardee Power II owning the remaining seventy-five percent interest. Both Hardee Power I and Hardee Power II are Florida corporations which are wholly-owned subsidiaries of Power Services formed for the purpose of holding the partnership interests in HPP. Power Services is a wholly-owned subsidiary of TECO Energy, Inc. ("TECO Energy"), a utility holding company exempt from registration under Section 3(a)(1) of the Public Utility Holding Company Act of 1935 because of the intrastate nature of TECO Energy's utility business.

⁷ TECO Power Services Corporation, 54 FERC ¶ 62,172 (1991).

⁸ On November 2, 1992 in Docket Nos. ER93-109-000 and ER93-134-000 and on September 20, 1993 in Docket No. ER93-966-000, HPP filed certain adjustments to the monthly capacity charge payable by Seminole and Tampa Electric, both of which resulted in a net decrease in the rates charged to the customers. The Commission accepted these revised rates for filing by letter orders issued on December 29, 1992 and November 12, 1993, respectively.

B. Seminole

Seminole is an electric generation and transmission cooperative incorporated in the State of Florida to provide wholesale electric service to eleven member rural electric distribution cooperatives. Seminole was originally formed in 1948 to represent its members in wholesale power purchase negotiations and, since 1974, has developed its own power supply resources. As of December 1998, the eleven member cooperatives serviced by Seminole supplied electricity to over 660,000 customers located in 45 of Florida's 67 counties.

C. Tampa Electric

Tampa Electric is a regulated electric utility that is subject to the jurisdiction of the Florida Public Service Commission and has been serving the West Central Florida region since 1899. Tampa Electric currently serves over 537,000 customers in a service territory that covers over 2,000 square miles including the City of Tampa. Tampa Electric is also a wholly-owned subsidiary of TECO Energy and is its largest subsidiary, accounting for approximately 63% of total operating revenues generated from all operations in 1998.

V. THE POWER SALES AGREEMENTS

A. The Seminole Agreement

The Seminole Agreement encompasses the terms and conditions of HPP's sale to Seminole of an entitlement to 295 MW of capacity and corresponding energy produced at the Hardee Power Station for a term of twenty years. Seminole is given first priority to this capacity and the corresponding energy when needed to satisfy its back-up power needs.⁹ The Seminole Agreement also provides for HPP's sale to Seminole of 145 MW of BB4 capacity and

⁹ A full description of the Seminole and the Tampa Electric Agreements is set forth in the January 18 Application.

corresponding energy purchased by HPP from Tampa Electric for a ten-year period commencing on January 1, 1993. This capacity and energy can be called upon by Seminole without regard to outages of its own units but is subject to specified annual energy limitations.

The rates under the Seminole Agreement include both a Monthly Capacity Charge and a Monthly Energy Charge.¹⁰ For the first ten years of the Seminole Agreement, the Monthly Capacity Charge is the sum of the Monthly CT/CC Capacity Charge (for the purchase of the capacity of the Hardee Power Station) and the Monthly BB4 Capacity Charge (passing through to Seminole the rates paid by HPP to Tampa Electric for the purchase of capacity and associated energy from BB4). During the second ten-year period, the Monthly Capacity Charge is the Monthly CT/CC Capacity Charge.¹¹

The Monthly Energy Charge is the sum of the energy charges for BB4 ("Monthly BB4 Cost") and the Hardee Power Station (the sum of the "Monthly Combustion Turbine Cost" and the "Monthly Combined Cycle Cost"). The calculation of the Monthly Energy Charge is determined based upon Seminole's actual energy usage from both BB4 and the Hardee Power Station during each month. The Monthly BB4 Cost is based on Seminole's pro-rata share (based on actual energy usage) of fuel costs, production, operation and maintenance expenses, and pre-established administrative and general expenses. The Monthly Combustion Turbine Cost and Monthly Combined Cycle Cost provide for the recovery of Seminole's pro-rata share (based

¹⁰ The Seminole Agreement (and the Tampa Electric Agreement, discussed below) sets forth in detail the allocation of risks between the parties for construction and operating performance. Please see the description of the Agreements in the January 18 Application.

¹¹ Seminole's Monthly CT/CC Capacity Charge is subject to a maximum 33% reduction based upon the actual performance of the Hardee Power Station both at initial operation and during ongoing operations. The Agreement also contains a formula to adjust the Monthly CT/CC Capacity Charge to account for certain events, such as (a) a change in financing rates or federal or state income tax rates, (b) the exercise by Seminole of its option to purchase capacity and energy from an expansion of the Hardee Power Station, or (c) the occurrence of certain specified contingencies.

upon actual energy usage) of fuel and variable operation and maintenance costs, and for the recovery of 60% of (1) the fixed costs of operation and maintenance, (2) the cost of replaced property units, and (3) administrative and general expenses.

Section 7.6 of the Seminole Agreement provides that Seminole may construct its own 220 MW combined cycle generating plant on the Site. In the event that Seminole elects to construct this facility, the Seminole Agreement provides that HPP will share with Seminole the use of certain common facilities (including facilities specifically listed in the Seminole Agreement) based on Seminole being responsible for an equitable share of the cost of necessary modifications, expansions, or adjustments to the common facilities necessary to support such capacity and an equitable share of any increase in operation and maintenance costs with respect to such common facilities. Furthermore, to the extent that there is a benefit to sharing of operation and maintenance resources to support all facilities on the Site, the Seminole Agreement provides that HPP and Seminole will develop appropriate arrangements that share the costs and benefits of such shared facilities equitably. As discussed below, the modifications to the Seminole Agreement in the Third Amendment implement Section 7.6 of the Seminole Agreement.

B. The Tampa Electric Agreement

The Tampa Electric Agreement contains the terms and conditions of HPP's sale to Tampa Electric of an entitlement to 295 MW of capacity and associated energy from the Hardee Power Station for a twenty-year period commencing on January 1, 1993, with a potential expansion of such facilities to 440 MW for the final ten years of the contract term. The capacity and energy is utilized by Tampa Electric to meet its peaking power requirements. Tampa Electric is entitled to the capacity at any time to meet its native load or firm power commitments except to the extent that it is being utilized by Seminole to meet its back-up power requirements.

The pricing of capacity and energy from the Hardee Power Station sold by HPP to Tampa Electric mirrors the provisions of the Seminole Agreement described above, except that Tampa Electric is allocated 40% of (1) the fixed costs of operation and maintenance, (2) replaced property units, and (3) administrative and general expenses. Tampa Electric also pays a pro-rata share (based upon actual energy usage) of fuel and variable operation and maintenance costs. In most respects, the Tampa Electric Agreement essentially mirrors the Seminole Agreement, with certain limited exceptions.¹²

VI. EXERCISE OF SEMINOLE'S OPTION UNDER THE SEMINOLE AGREEMENT

Seminole has decided to exercise its right under Section 7.6 of the Seminole Agreement to construct the Payne Creek Generation Station (also known as Hardee Power Station, Unit No. 3 ("HPS #3")), a combined cycle generating facility with a net generating capacity of 488 MW. As a result of Seminole's construction of HPS #3 and pursuant to the Seminole Agreement, adjustments must be made to the rates paid by Tampa Electric and Seminole to reflect Seminole's increased use of certain common facilities.¹³ Accordingly, the Third Amendments reallocate the costs of the HPS Site Common Facilities and the costs of operating and maintaining those common facilities between Tampa Electric and Seminole. This reallocation is described further below.

¹² These exceptions include liquidated damage provisions and the scheduling of planned outages, among others. The exceptions are described in full in Exhibit C, Tab 1 of the January 18 Application.

¹³ HPS Plant Common Facilities are defined in the Fourth Amendments, and HPS Site Common Facilities are defined in the Third Amendments. HPS Plant Common Facilities are certain specified facilities within the Hardee Power Station such as the control building, the fire protection system, and the service water system. See footnote 3 for a description of HPS Site Common Facilities. The construction of HPS #3 will result in the increased utilization of HPS Site Common Facilities by Seminole, but will have no impact on the parties' utilization of HPS Plant Common Facilities.

VII. THIRD AMENDMENTS TO THE POWER SALES AGREEMENTS

A. Third Amendment to the Seminole Agreement

The Third Amendment to the Seminole Agreement addresses the reallocation of the costs of the HPS Site Common Facilities as a result of Seminole's construction of the Payne Creek Generating Station. Two different kinds of costs are involved: the actual costs of the common facilities and the fixed and variable costs of operating and maintaining those common facilities.

First, the actual costs of the common facilities themselves are reallocated and recovered through an adjustment to the Monthly Capacity Charge. Once Seminole receives the necessary approval from the State of Florida Department of Environmental Protection ("FDEP") for construction, the costs of the HPS Site Common Facilities must be reallocated to reflect Seminole's increased utilization of those facilities. This is accomplished through the HPS Site Common Facilities Capacity Charge Adjustment.¹⁴ Through that adjustment, Seminole will pay a monthly charge of \$25,168 in addition to its Monthly CT/CC Capacity Charge to reflect its increased utilization of the HPS Site Common Facilities. Effective January 1, 2003, that monthly charge will increase to \$26,234 as a result of other rate adjustments previously set forth in the Seminole Agreement.

The fixed and variable operation and maintenance costs of the HPS Site Common Facilities are recovered through the Monthly Energy Charge. The existing Agreement is amended to make clear that the original 60%/40% allocation of operating and maintenance costs, other than the costs of operating and maintaining the HPS Site Common Facilities, is not changed by the Third Amendment. Three hundred and thirty days after the release of construction under the construction contract for the Payne Creek Generation Station, the fixed

¹⁴ Third Amendment to the Seminole Agreement § 6.4.9.

operation and maintenance costs of the HPS Site Common Facilities costs are allocated 72% to Seminole and 28% to Tampa Electric. The reallocation of the variable operation and maintenance costs of the HPS Site Common Facilities takes place on the same effective dates described above.

Seminole will be allocated a pro-rata share of the variable operation and maintenance costs of the HPS Site Common Facilities based on the percentage of energy produced from the Hardee Power Station and the Payne Creek Generating Station as a proportion of the total energy produced from those same facilities during the previous twelve months.¹⁵

B. Third Amendment to the Tampa Electric Agreement

The Third Amendment to the Tampa Electric Agreement contains similar provisions to those described above with respect to the reallocation of the costs of the HPS Site Common Facilities as well as the fixed and variable operations and maintenance costs of those Common Facilities resulting from Seminole's construction of the Payne Creek Generating Station. Tampa Electric will receive a credit reducing the amount it owes through the Monthly CT/CC Capacity Charge to reflect Tampa Electric's relative decrease in its utilization of the HPS Site Common Facilities. Once Seminole receives the necessary approval for construction from the FDEP, Tampa Electric will receive a credit of \$19,494 towards its Monthly CT/CC Capacity Charge.¹⁶ Effective January 1, 2003, that credit increases to \$20,320, as a result of other rate adjustments

¹⁵ For clarification, please note that the definition of Hardee Power Station within the Third Amendments differs from that used in this Petition. In the Amendments, Hardee Power Station is defined to include the Payne Creek Generating Station and the 2003 Capacity Additions (discussed in the Fourth Amendments), to the extent they are constructed, in addition to the facilities identified in footnote 5, above.

¹⁶ Seminole's increase to its monthly charge is greater than Tampa Electric's credit because Seminole has agreed to pay the costs of certain facilities that were previously paid for by HPP. These facilities consist of a water well, pump, and a cooling reservoir and were constructed in anticipation of the addition of the Payne Street Generating Facility to the Site.

previously set forth in the Tampa Electric Agreement. In addition, the percentage of fixed and variable operation and maintenance costs paid by Tampa Electric will be reduced.

VIII. THE RATES UNDER THE THIRD AMENDMENTS TO THE POWER SALES AGREEMENTS SHOULD BE ACCEPTED BY THE COMMISSION

The rates under the Third Amendments to the Seminole and the Tampa Electric Agreements are just and reasonable. The changes in rates required by the Third Amendments implement provisions of the Seminole and Tampa Electric Agreements previously accepted by the Commission.¹⁷ The rates under the Third Amendments are designed to reflect the increased usage by Seminole of certain HPS Site Common Facilities resulting from Seminole's decision to construct the Payne Creek Generating Station on the Site. Correspondingly, Tampa Electric's rates will decrease as a result of this reallocation, as discussed above. The rate adjustments implemented by the Third Amendments equitably reallocate the costs of the common facilities and, therefore, are just and reasonable. Both Seminole and Tampa Electric are in agreement with respect to the changes effected by the Third Amendments to both Agreements, as attested by the attached Letters of Concurrence (Exhibit B).

IX. REQUEST FOR WAIVERS

HPP requests the following waivers and preapprovals previously granted to single-asset utilities similar to HPP:

- (a) waiver of the accounting and other requirements of Parts 41, 101, and 141 of the Commission's regulations;
- (b) waiver of Part 45 of the Commission's regulations regarding interlocks, provided that HPP files abbreviated statements thereunder;

¹⁷ TECO Power Services Corporation, 53 FERC ¶ 61,202.

- (c) waiver of Subparts B and C of Part 35 of the Commission's regulations as to this filing, except sections 35.13(b), 35.15 and 35.16; and
- (d) blanket authorization of all future issuances of securities and assumptions of liabilities.

While these waivers for the Seminole and Tampa Electric Agreements were originally denied by the Commission,¹⁸ the Commission has recently approved these waivers in a proceeding with factual circumstances similar to those described herein. The Commission concluded in Nevada Sun-Peak Limited Partnership that single asset utilities with long-term fixed rate contracts do not need to be subjected "to the full measure of [the Commission's] traditional regulatory requirements."¹⁹ Likewise, HPP, as a single asset utility with long-term contracts in place, should not be subject to these regulatory requirements. Therefore, the above-listed waivers should be granted.

Furthermore, HPP requests a waiver of the 60-day notice requirement in section 35.3 of the Commission's regulations so as to allow the Amendments to become effective on or before November 1, 1999. HPP also requests any other waiver of the Commission's regulations necessary to allow the Amendments to become effective on that date.

X. REQUEST FOR EXPEDITED TREATMENT

It is imperative that the regulatory review and approval of the Third Amendments be expedited so that Seminole can meet certain critical financing obligations and schedules associated with the construction of the Payne Creek Generating Station. In order for Seminole to meet these deadlines, HPP requests that the Commission approve the Third Amendments by November 1, 1999.

¹⁸ Id.

¹⁹ Nevada Sun-Peak Limited Partnership, 86 FERC ¶ 61,243 at 61,874 (March 10, 1999).

XI. EXHIBITS

The following supporting exhibits are attached to this Petition:

Exhibit A: Amendments

Tab 1: Third Amendment to Power Sales Agreement between HPP and Seminole

Tab 2: Third Amendment to Power Sales Agreement between HPP and Tampa Electric

Exhibit B: Purchasing Utilities' Letters of Concurrence to Petition

Exhibit C: Parties served with a copy of this Petition

Exhibit D: Form of Notice

Exhibit E: Certificate of Service

XII. CONCLUSION

For the reasons stated above, Hardee Power Partners Limited respectfully requests that the Commission accept for filing the Third Amendments to the Seminole and Tampa Electric Agreements. In order to enable Seminole to arrange the necessary financing for the construction of the Payne Creek Generation Station, Hardee Power Partners Limited requests that the Commission act on this filing prior to the expiration of the 60-day period set forth in Section 205 of the Federal Power Act.

Respectfully submitted,



Robert L. Dailader, Jr.
Karen Georgenson Gach
Nixon Peabody LLP
One Thomas Circle, N.W.
Suite 700
Washington, D.C. 20005
(202) 457-5300

Dated: September 15, 1999

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of:

Hardee Power Partners Limited

)
)
)

ER99- -000

FEDERAL ENERGY
REGULATORY
COMMISSION

99 SEP 15 PM 4:48

PETITION OF HARDEE POWER PARTNERS LIMITED
FOR AN ORDER ACCEPTING RATES

I. INTRODUCTION

Pursuant to Rules 205 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.205 and 385.207 (1998), and Sections 35.12 and 35.13 of the Commission's Regulations, 18 C.F.R. §§ 35.12 and 35.13 (1998), Hardee Power Partners Limited ("HPP") submits this abbreviated rate filing in connection with amendments to two power sales agreements ("Fourth Amendments" or "Amendments") providing for the sale by HPP of electric capacity and associated energy to Seminole Electric Cooperative, Inc. ("Seminole") and Tampa Electric Company ("Tampa Electric") from the Hardee Power Station, the rates under which were previously accepted by the Commission.¹ The Amendments filed herein implement the provisions of the original agreements which contemplate the expansion of the Hardee Power Station² and reflect certain related changes in the rates, as provided for in the power sale agreements. Tampa Electric has

¹ TECO Power Services Corporation, 53 FERC ¶ 61,202 (1990) ("November 19 Order").

² The Hardee Power Station provides 295 MW of generating capacity, consisting of a 220 MW combined cycle unit ("CC 1") and a 75 MW combustion turbine ("CT 2A"), and uses natural gas as its primary fuel and No. 2 fuel oil as a back-up fuel. In the Amendments, these facilities are referred to as the CT/CC Facilities.

exercised its option under the original power sales agreements to require that HPP expand the Hardee Power Station in two phases, the first phase of which is the subject of the instant Petition.³ The rate changes effected by the Fourth Amendments are two-fold: (1) HPP's construction of the first phase of the 2003 Capacity Additions at the Hardee Power Station necessitates a reallocation of the costs of certain common facilities, namely the HPS Site Common Facilities and the HPS Plant Common Facilities⁴ between Tampa Electric and Seminole and (2) the Fourth Amendment to the Tampa Electric Agreement sets forth the rates, terms and conditions pursuant to which HPP shall sell capacity and corresponding energy from the first phase of the 2003 Capacity Additions to Tampa Electric. In both cases, the rate changes filed herein will yield an overall reduction in the unit cost of electricity paid by Seminole and Tampa Electric compared to those rates currently on file with the Commission. As further described herein, HPP requests waiver of the Commission's 60-day notice requirement and an effective date of November 1, 1999.

Contemporaneously with the filing of this Petition, HPP is filing a second petition submitting amendments to the same two power sales agreements ("Third Amendments"). The Third Amendments implement those provisions of the power sales agreements that allow Seminole to construct its own generation, the Payne Creek Generating Station, on the same site

³ The expansion of the Hardee Power Station is referred to in the original power sales agreements as the 2003 Capacity Additions. The first phase of the 2003 Capacity Additions will involve the construction of a second combustion turbine (the "CT 2B") adjacent to the CT 2A. Tampa Electric also retains the right to require that HPP construct an additional steam turbine and two heat recovery steam generators to form a second combined cycle unit ("CC 2"). Tampa Electric Agreement § 10.2.1.

⁴ The HPS Site Common Facilities are the access roads, the cooling reservoir, the natural gas pipeline, the switchyard, the water wells, and pumps and the Site itself (see infra footnote 5), all of which will be shared by the Hardee Power Station and the Payne Creek Generating Station. The HPS Plant Common Facilities are certain specified facilities within the Hardee Power Station such as the control building, the fire protection system, and the service water system. HPP's construction of the first phase of the 2003 Capacity Additions will necessitate a reallocation of the costs of both the HPS Site Common Facilities and the HPS Plant Common Facilities, as well as the fixed and variable operation and maintenance costs of both categories of common facilities.

("Site")⁵ on which the Hardee Power Station is situated and which make related rate adjustments.⁶

II. COMMUNICATIONS

All service and correspondence concerning this Application should be addressed to:

Robert L. Daileader, Jr.
Karen Georgenson Gach
Nixon Peabody LLP
One Thomas Circle, N.W., Suite 700
Washington, D.C. 20005
(202) 457-5300

and

Linda A. Miller
Vice President
Hardee Power Partners Limited
702 North Franklin Street
Tampa, Florida 33602
(813) 228-1311

III. BACKGROUND

On January 18, 1990, Power Services, HPP's predecessor in interest, and Tampa Electric filed for approval of the rates under three power sales agreements in Docket No. ER90-164 ("January 18 Application"). The three agreements were (1) the Agreement for Sale and Purchase of Capacity and Energy between TECO Power Services Corporation and Seminole Electric Cooperative, Inc. (the "Seminole Agreement"); (2) the Agreement for Sale and Purchase of

⁵ The Site is a 465-acre parcel of land contiguous to the Tampa Electric service territory which has been leased by Acuera Corporation, a subsidiary of Seminole, to TECO Power Services Corporation ("Power Services"), HPP's predecessor in interest. See *infra* footnote 9 and accompanying text.

⁶ Seminole's construction of the Payne Creek Generating Station will necessitate the reallocation of the cost of the HPS Site Common Facilities and the fixed and variable operation and maintenance costs of those facilities.

Capacity and Energy from the Hardee Power Station between TECO Power Services Corporation and Tampa Electric Company (the "Tampa Electric Agreement") ("collectively, the "Power Sales Agreements" or the "Agreements"); and (3) the Agreement for Sale and Purchase of Capacity and Energy from Big Bend Station Unit No. 4 ("BB4") between TECO Power Services Corporation and Tampa Electric Company (the "BB4 Agreement").⁷ The Power Sales Agreements and the BB4 Agreement form an integrated transaction in which HPP (1) has constructed, owns, and operates the Hardee Power Station; (2) sells for twenty years capacity and energy produced by the Hardee Power Station to Seminole and Tampa Electric pursuant to the Seminole and Tampa Electric Agreements, respectively; and (3) purchases for ten years certain rights to 145 MW of capacity and energy from Tampa Electric for resale to Seminole pursuant to the BB4 Agreement. The agreements were initially developed in response to Seminole's 1988 request for proposals to provide 440 MW of back-up power to Seminole over a twenty-year period commencing January 1, 1993. These agreements were negotiated and finalized at the conclusion of that bidding program and represented at the time an innovative mix of new and existing generating capacity to meet the complementary capacity and energy needs of Seminole and Tampa Electric.

On November 19, 1990, the Commission accepted the three agreements for filing, finding that the costs of the Hardee Power Station, including the equity allowance, and the allocation of those costs between Seminole and Tampa Electric to be reasonable.⁸ The Commission designated the three agreements as follows: (1) the Seminole Agreement was designated as

⁷ The BB4 Agreement provides for the sale by Tampa Electric to Power Services of an entitlement to 145 MW of capacity and energy from Tampa Electric's BB4 coal-fired facility for a ten-year period commencing on January 1, 1993.

⁸ TECO Power Services Corporation, 53 FERC ¶ 61,202 at 61,811-13.

TECO Power Services, Inc., Rate Schedule FERC No. 1; (2) the Tampa Electric Agreement was designated as TECO Power Services, Inc., Rate Schedule FERC No. 2; and (3) the BB4 Agreement was designated as Tampa Electric Company, Rate Schedule FERC No. 33.

On December 21, 1990, Power Services filed with the Commission an application for authorization to transfer all of its rights, title, and interest in the Hardee Power Station to HPP in order to facilitate financing of the Hardee Power Station. The transfer of all project agreements and rights to develop the project was approved by the Commission in March 1991.⁹ The Seminole and Tampa Electric Agreements were redesignated Hardee Power Partners Limited, Rate Schedules FERC Nos. 1 and 2, respectively, by letter order dated May 23, 1991 in Docket No. ER91-372-000.¹⁰

IV. PARTIES TO THE TRANSACTION

A. Hardee Power Partners Limited

HPP is a Florida limited partnership of which Hardee Power I, Inc. ("Hardee Power I") is the sole general partner, and Hardee Power II, Inc. ("Hardee Power II") is the sole limited partner. Hardee Power I has a twenty-five percent ownership interest in HPP with Hardee Power II owning the remaining seventy-five percent interest. Both Hardee Power I and Hardee Power II are Florida corporations which are wholly-owned subsidiaries of Power Services formed for the purpose of holding the partnership interests in HPP. Power Services is a wholly-owned subsidiary of TECO Energy, Inc. ("TECO Energy"), a utility holding company exempt from

⁹ TECO Power Services Corporation, 54 FERC ¶ 62,172 (1991).

¹⁰ On November 2, 1992 in Docket Nos. ER93-109-000 and ER93-134-000 and on September 20, 1993 in Docket No. ER93-966, HPP filed to make certain adjustments to the Monthly Capacity Charge payable by Seminole and Tampa Electric, which resulted in a net decrease in the rates charged both purchasers. The Commission accepted these revised rates by orders issued on December 29, 1992 and November 12, 1993, respectively.

regulation under Section 3(a)(1) of the Public Utility Holding Company Act of 1935 because of the intrastate nature of TECO Energy's utility business.

B. Seminole

Seminole is an electric generation and transmission cooperative incorporated in the State of Florida to provide wholesale electric service to eleven member rural electric distribution cooperatives. Seminole was originally formed in 1948 to represent its members in wholesale power purchase negotiations and, since 1974, has developed its own power supply resources. As of December 1998, the eleven member cooperatives serviced by Seminole supplied electricity to over 660,000 customers located in 45 of Florida's 67 counties.

C. Tampa Electric

Tampa Electric is a regulated electric utility that is subject to the jurisdiction of the Florida Public Service Commission and has been serving the West Central Florida region since 1899. Tampa Electric currently serves over 537,000 customers in a service territory that covers over 2,000 square miles including the City of Tampa. Tampa Electric is also a wholly-owned subsidiary of TECO Energy and is its largest subsidiary, accounting for approximately 63% of total operating revenues generated from all operations in 1998.

V. THE POWER SALES AGREEMENTS

A. The Seminole Agreement

The Seminole Agreement encompasses the terms and conditions of HPP's sale to Seminole of an entitlement to 295 MW of capacity and corresponding energy produced at the Hardee Power Station for a term of twenty years. Seminole is given first priority to this capacity

and the corresponding energy when needed to satisfy its back-up power needs.¹¹ The Seminole Agreement also provides for HPP's sale to Seminole of 145 MW of BB4 capacity and corresponding energy purchased by HPP from Tampa Electric for a ten-year period commencing on January 1, 1993. This capacity and energy can be called upon by Seminole without regard to outages of its own units but is subject to specified annual energy limitations.

The rates under the Seminole Agreement include both a Monthly Capacity Charge and a Monthly Energy Charge.¹² For the first ten years of the Seminole Agreement, the Monthly Capacity Charge is the sum of the Monthly CT/CC Capacity Charge (for the purchase of the capacity of the Hardee Power Station) and the Monthly BB4 Capacity Charge (passing through to Seminole the rates paid by HPP to Tampa Electric for the purchase of capacity and associated energy from BB4). During the second ten-year period, the Monthly Capacity Charge is the Monthly CT/CC Capacity Charge.¹³

The Monthly Energy Charge is the sum of the energy charges for BB4 ("Monthly BB4 Cost") and the Hardee Power Station (the sum of the "Monthly Combustion Turbine Cost" and the "Monthly Combined Cycle Cost"). The calculation of the Monthly Energy Charge is based upon Seminole's actual energy usage from both BB4 and the Hardee Power Station during each month. The Monthly BB4 Cost is based on Seminole's pro-rata share (based on actual energy

¹¹ A full description of the Seminole and the Tampa Electric Agreements is provided in the January 18 Application.

¹² The Seminole Agreement (and the Tampa Electric Agreement, discussed below) sets forth in detail the allocation of risks between the parties for construction and operating performance of the Hardee Power Station. Please refer to the description of the Agreements in the January 18 Application.

¹³ Seminole's Monthly CT/CC Capacity Charge is subject to a maximum 33% reduction based upon the actual performance of the Hardee Power Station both at initial operation and during ongoing operations. The Agreement also contains a formula to adjust the Monthly CT/CC Capacity Charge to account for certain events, such as whether (a) a change in financing rates or federal or state income tax rates occurs, (b) Seminole exercises its option to purchase capacity and energy from an expansion of the Hardee Power Station, or (c) any of certain specified contingencies occurs.

usage) of fuel costs, production, operation and maintenance expenses, and pre-established administrative and general expenses. The Monthly Combustion Turbine Cost and Monthly Combined Cycle Cost are designed to recover Seminole's pro-rata share (based upon actual energy usage) of fuel and variable operation and maintenance costs and 60% of (1) the cost of fixed operation and maintenance, (2) the cost of replaced property units, and (3) administrative and general expenses.

B. The Tampa Electric Agreement

The Tampa Electric Agreement contains the terms and conditions of HPP's sale to Tampa Electric of an entitlement to 295 MW of capacity and associated energy from the Hardee Power Station for a twenty-year period commencing on January 1, 1993, with a potential expansion of such facilities to 440 MW for the final ten years of the contract term. The capacity and energy is utilized by Tampa Electric to meet its peaking power requirements. Tampa Electric is entitled to the capacity at any time to meet its native load or firm power commitments except to the extent that it is being utilized by Seminole to meet its back-up power requirements. The pricing of capacity and energy from the Hardee Power Station sold by HPP to Tampa Electric mirrors the provisions of the Seminole Agreement, described above, except that Tampa Electric is allocated 40% of (1) the cost of fixed operation and maintenance, (2) the cost of replaced property units, and (3) administrative and general expenses through the monthly energy charge. Tampa Electric also pays a pro-rata share (based upon actual energy usage) of fuel and variable operation and maintenance costs.

With respect to non-rate terms and conditions, the Tampa Electric Agreement essentially mirrors the Seminole Agreement, with certain limited exceptions.¹⁴

VI. EXERCISE OF OPTION UNDER THE POWER SALES AGREEMENTS

The Seminole Agreement and the Tampa Electric Agreement provide both purchasers with certain rights to require HPP to expand the Hardee Power Station by the year 2003. This expansion (referred to in the Agreements as the "2003 Capacity Additions") can consist of a 75 MW second combustion turbine (the "CT 2B"), two heat recovery steam generators, and one 70 MW steam turbine which, when fully constructed, would provide a second combined cycle unit with a total capacity of 220 MW.¹⁵ Under the original Agreements, the right to require the construction of the 2003 Capacity Additions was given first to Seminole, then to HPP, and, finally, to Tampa Electric. Seminole and HPP have determined not to exercise the option. Tampa Electric has decided to exercise its option under the Tampa Electric Agreement, as described below.

Tampa Electric has exercised its option to require that HPP construct the 2003 Capacity Additions in two phases. The first phase consists of a single combustion turbine, the CT 2B, of approximately 75 MW net capacity and is scheduled to be in service by May 15, 2000. Tampa Electric retains an option to require HPP to construct the second phase consisting of the remainder of the facilities (two heat recovery steam generators and one 70 MW steam turbine).

¹⁴ These exceptions include liquidated damage provisions and the scheduling of planned outages, among others. The exceptions are described in full in Exhibit C, Tab 1 of the January 18 Application.

¹⁵ Thus, construction of the 2003 Capacity Additions would result in the Hardee Power Station consisting to two 220 MW combined cycle units ("CC 1" and "CC 2").

To exercise its remaining option, Tampa Electric must provide written notice to HPP prior to December 1, 2000.¹⁶

The purpose of the Fourth Amendments to the Power Sales Agreements is three-fold. First, the Amendments continue the reallocation, as between Tampa Electric and Seminole, of the costs of the HPS Site Common Facilities and the costs of operating and maintaining those common facilities as a result of Seminole's construction of the Payne Creek Generating Station implemented by the Third Amendments.¹⁷ This reallocation is further explained in the Third Amendments and the corresponding petition. Second, the Fourth Amendments reallocate the costs of the HPS Plant Common Facilities and the HPS Site Common Facilities and the costs of operating and maintaining both categories of common facilities between Tampa Electric and Seminole as a result of HPP's construction of the first phase of the 2003 Capacity Additions on behalf of Tampa Electric.¹⁸ Third, the Tampa Electric Agreement is amended to provide for the sale of capacity and associated energy by HPP to Tampa Electric from the first phase of the 2003 Capacity Additions as well as other terms and conditions associated with the construction of that new capacity, including performance guarantees.

¹⁶ See Fourth Amendment to the Tampa Electric Agreement § 10.2.1.

¹⁷ While declining its option relating to the 2003 Capacity Additions, Seminole has exercised its right under Section 7.6 of the Seminole Agreement to construct its own combined cycle generating facility adjacent to the Hardee Power Station on the same Site. The Seminole project is referred to as the Payne Creek Generating Station or Hardee Power Station, Unit No. 3 ("HPS #3"). This facility will have a net generating capacity of 488 MW, rather than 220 MW as provided in the Seminole Agreement. As a result of Seminole's construction of the Payne Creek Generating Station and pursuant to the Seminole Agreement, adjustments have been made to the rates paid by Tampa Electric and Seminole to reflect Seminole's increased use of certain common facilities defined within the Third Amendments. The Third Amendments, filed contemporaneously with this Petition, implement these rate adjustments, and the Fourth Amendments continue those adjustments.

¹⁸ Since the 2003 Capacity Additions will utilize common facilities within the Hardee Power Station itself (such as the fire protection system, the control building, and the sewage treatment/wastewater system) as well as common facilities not physically within the Hardee Power Station but on the same site (such as access roads, the cooling reservoir and the switchyard), Tampa Electric will contribute to both the HPS Plant Common Facilities and the HPS Site Common Facilities. In contrast, Seminole's Payne Creek Generating Station will utilize only HPS Site Common Facilities. For that reason, the rate adjustments resulting from Seminole's

(Footnote continued on next page)

VII. FOURTH AMENDMENTS TO THE POWER SALES AGREEMENTS

A. Fourth Amendment to the Seminole Agreement

The Fourth Amendment to the Seminole Agreement addresses the reallocation of the costs of the HPS Site Common Facilities and the HPS Plant Common Facilities as a result of HPP's construction of the 2003 Capacity Additions for the benefit of Tampa Electric. In addition, the Fourth Amendment continues the reallocation of HPS Site Common Facilities implemented by the Third Amendment as a result of Seminole's decision to construct the Payne Creek Generating Station. The allocation of two different kinds of costs are involved: the actual costs of the common facilities and the fixed and variable costs of operating and maintaining the common facilities.

First, the actual costs of the HPS Site Common Facilities and the HPS Plant Common Facilities are reallocated and recovered through an adjustment to the Monthly Capacity Charge, referred to in both Fourth Amendments as the "HPS Shared Common Facilities Capacity Charge Adjustment." This adjustment is phased in over time as both Seminole and HPP obtain the necessary regulatory approvals to construct the Payne Creek Generating Station and the first phase of the 2003 Capacity Additions, respectively. At present, it is anticipated that Seminole will be the first to receive the necessary approval from the State of Florida Department of Environmental Protection ("FDEP"), resulting in the reallocation of costs of the HPS Site Common Facilities to reflect Seminole's increased utilization of those facilities. Thus, Seminole will initially pay a monthly charge of \$25,168 in addition to its Monthly CT/CC Capacity

(Footnote continued from previous page)

construction of the Payne Creek Generating Station made in the Third Amendments and continued in the Fourth Amendments only adjust the charges related to the HPS Site Common Facilities.

Charge.¹⁹ Following the date when HPP receives approval from the FDEP to construct the first phase of the 2003 Capacity Additions, a reallocation of the costs of both the HPS Site Common Facilities and the HPS Plant Common Facilities will result in a credit to Seminole in the amount of \$51,657 per month against the Monthly CT/CC Capacity Charge. Commencing on January 1, 2003, the monthly credit to Seminole will increase to \$53,845 as a result of other rate adjustments previously set forth in the Seminole Agreement. The Fourth Amendment to the Seminole Agreement addresses the possibility that the sequencing of regulatory approvals may be different from what the parties now contemplate and would require a recalculation of the charges/credits described above to account for the re-sequencing of the regulatory approvals.

The fixed and variable operation and maintenance costs of the HPS Site Common Facilities and the HPS Plant Common Facilities are recovered through the Monthly Energy Charge. First, the existing Seminole Agreement is amended to make clear that the original 60%/40% allocation of costs other than the costs of the HPS Site Common Facilities and the HPS Plant common facilities are not changed by the Fourth Amendment. The reallocation of the fixed operation and maintenance costs of both the HPS Site Common Facilities and the HPS Plant Common Facilities are triggered by different effective dates. First, ninety days after the release of construction under the construction contract for the first phase of the 2003 Capacity Additions, the fixed operation and maintenance costs of the HPS Site Common Facilities are allocated 46.8% to Seminole and 53.2% to Tampa Electric. Three hundred and thirty days after the release of construction under the construction contract for the Payne Creek Generating Station, the same fixed costs are allocated 62.2% to Seminole and 37.8% to Tampa Electric. The

¹⁹ The additional charges to Seminole resulting from its increased use of HPS Site Common Facilities is described in detail in the Third Amendment to the Seminole Agreement and related petition.

fixed operation and maintenance costs of the HPS Plant Common Facilities are allocated 40.2% to Seminole and 59.8% to Tampa Electric beginning on the date which is ninety days after the release of construction under the construction contract for the first phase of the 2003 Capacity Additions.

The reallocation of the variable operation and maintenance costs of the HPS Site Common Facilities and the HPS Plant Common Facilities takes place on the same effective dates described above. The reallocation of the variable costs for the HPS Site Common Facilities will be calculated on a monthly basis and will be done based on the energy taken by Seminole and Tampa Electric over the prior twelve-month period as a percentage of the total energy produced by all generation at the Site (*i.e.*, the Hardee Power Station plus the Payne Creek Generating Station) over the same period.²⁰ The reallocation of the variable costs of the HPS Plant Common Facilities will be calculated based on energy taken by Seminole from the Hardee Power Station and by Tampa Electric from both the Hardee Power Station and the first phase of the 2003 Capacity Additions over the prior twelve months as a percentage of the total energy produced by the Hardee Power Station and the first phase of the 2003 Capacity Additions over the same period. Fuel costs continue to be allocated on a pro-rata basis according to Seminole's actual usage.

B. Fourth Amendment to the Tampa Electric Agreement

The Fourth Amendment to the Tampa Electric Agreement contains similar provisions to those described above with respect to the reallocation of the costs of the HPS Site Common Facilities and the HPS Plant Common Facilities as well as the fixed and variable operations and

²⁰ For clarification, please note that the definition of Hardee Power Station within the Third and Fourth Amendments differs from that used in this Petition. In the Third Amendments, Hardee Power Station is defined to include the Payne Creek Generating Station and the 2003 Capacity Additions, to the extent they are constructed, in addition to the facilities identified in footnote 2, supra.

maintenance costs of those common facilities. In addition, the Fourth Amendment to the Tampa Electric Agreement contains additional rates, terms, and conditions addressing the sale of the capacity and associated energy by HPP to Tampa Electric from the first phase of the 2003 Capacity Additions.

VIII. THE RATES UNDER THE FOURTH AMENDMENTS TO THE POWER SALES AGREEMENTS SHOULD BE ACCEPTED BY THE COMMISSION

A. The Rates Under the Fourth Amendment to the Seminole Agreement Should be Accepted by the Commission

The Fourth Amendment to the Seminole Agreement alters the rates paid by Seminole to reflect the change in the allocation of the costs of the HPS Site Common Facilities and HPS Plant Common Facilities necessitated by HPP's construction of the 2003 Capacity Expansion on behalf of Tampa Electric. The Fourth Amendment also continues the reallocation of the costs associated with HPS Site Common Facilities implemented in the Third Amendments to reflect Seminole's increased usage of those facilities as a result of Seminole's construction of the Payne Creek Generating Station. The reallocation required by HPP's construction of the first phase of the 2003 Capacity Additions will shift costs away from Seminole and will result in a monthly credit, upon certain effective dates described above, reducing Seminole's Monthly CT/CC Capacity Charge. These revised rates equitably allocate the costs associated with the facilities and should, therefore, be accepted by the Commission. HPP, Seminole, and Tampa Electric are in agreement with respect to the allocation of these costs between Seminole and Tampa Electric.

B. The Rates Under the Fourth Amendment to the Tampa Electric Agreement Should be Accepted by the Commission

The Commission should accept the rates under the Fourth Amendment as just and reasonable.²¹ This Amendment merely implements the provisions of the Power Sales Agreements, previously accepted by the Commission, which specifically contemplate the construction of the 2003 Capacity Additions. The energy and capacity being sold to Tampa Electric from the first phase of the 2003 Capacity Additions is being sold at rates lower than the rates established in the Tampa Electric Agreement for the currently existing capacity. The capacity rates for the existing capacity remains unchanged, except for costs related to the reallocation of the costs of common facilities, described above.

The Commission should conclude that the rates paid by Tampa Electric for the capacity produced by the first phase of the 2003 Capacity Additions are just and reasonable. First, the construction of those facilities is expressly provided for in the Seminole and Tampa Electric Agreements, both of which were accepted for filing by the Commission in Docket No. ER90-164-001. In addition, it is clear that the rates for capacity paid by Tampa Electric for the first phase of the 2003 Capacity Additions are significantly lower than the rates paid for the remaining capacity supplied by the Hardee Power Station. Exhibit D, attached hereto, provides a comparison of the capacity rates. The capacity rate for the first phase of the 2003 Capacity Additions is \$6.02 per kW per month, compared to the average rate of \$9.33 per kW per month paid by Seminole and Tampa Electric for the 295 MW produced by the Hardee Power Station, a rate reduction of more than 35%. Exhibit C, also attached hereto, contains detailed financial

²¹ This section addresses the capacity rates under the Fourth Amendment to the Tampa Electric Agreement. Fuel costs and variable operation and maintenance costs continue to be allocated based upon actual usage through the monthly energy charge. Fixed operation and maintenance costs are allocated as described above in Section VII.A.

projections relating to the operation of the first phase of the 2003 Capacity Additions from the projected in-service date of May 15, 2000 until the end of the term of the Tampa Electric Agreement on December 31, 2012. Included in Exhibit C is a Summary of Financial Information (Tab 1), an Income Statement (Tab 2), a Cash Flow Schedule (Tab 3), and a Revenue Requirement Calculation (Tab 5).²²

The components of the capacity rate paid by Tampa Electric for the first phase of the 2003 Capacity Additions can also be shown to be just and reasonable in relation to the rates found to be just and reasonable by the Commission in Docket No. ER90-164-001. For example, HPP's investment base in the first phase of the 2003 Capacity Additions is projected to be [Privileged Information -- ██████████, of which ██████████ (or ██████████ of the total investment)] will be paid to the construction contractor, National Energy Production Corporation, an unaffiliated entity. In Docket No. ER90-164-001, the Commission determined that Power Services' \$195 million investment base in the Hardee Power Station to be reasonable, particularly in light of the fact that 85% of the investment base reflected a known payment to the turnkey contractor.²³ Thus, consistent with its determination in Docket No. ER90-164-001, the Commission should find HPP's investment base in the first phase of the 2003 Capacity Additions to be just and reasonable.

Furthermore, the capital structure for the first phase of the 2003 Capacity Additions is projected to be 80% debt and 20% equity, substantially the same capital structure reviewed and approved by the Commission in Docket No. ER90-164-001 for the Hardee Power Station (77.5%

²² HPP has provided this data in substantially the form of the cost-of-service data submitted by Power Services and accepted for filing by the Commission in Docket No. ER90-164-001. See Petition for Rehearing, Tab C, Affidavit of Mark D. Luftig.

²³ TECO Power Services Corporation, 53 FERC ¶ 61,202 at 61,811.

debt and 22.5% equity).²⁴ The long-term debt for the first phase of the 2003 Capacity Additions is expected to be financed for a twenty year term with coverage ratios averaging 1.41. This is an aggressive financing plan since the debt term exceeds the remaining contract term by eight years. However, twenty-year financing permits the project to be leveraged up to 80% which, in turn, allows HPP to structure just and reasonable capacity rates while providing HPP with a reasonable return. The interest rate is assumed to be 7.5% which is substantially lower than the assumed 10.5% long-term finance rate used for the financing of the Hardee Power Station²⁵ as well as the actual "all-in" rate that HPP was ultimately able to lock into through the issuance of secured facility bonds.²⁶ Finally, HPP projects an internal rate of return of [Privileged Information -- ██████] for the first phase of the 2003 Capacity Additions over the remaining term of the Tampa Electric Agreement. In Docket No. ER90-164-001, the Commission approved a projected internal rate of return equal to 20.13% over the useful life of the Hardee Power Station (30 years). The above comparisons demonstrate that the capital structure, cost of long-term debt, and the internal rate of return for the first phase of the 2003 Capacity Additions are reasonable.

The Commission, in Docket No. ER90-164-001, corroborated the reasonableness of the rates paid by Tampa Electric and Seminole under the Power Sales Agreements by comparing those rates to the rates Tampa Electric could have charged if it had undertaken to construct the generating facilities on its own. The Commission engaged in this analysis because it could not "derive the precise rate of return equity investors would demand for this project because Power

²⁴ Id. at 61,811, n. 17.

²⁵ See Tampa Electric Agreement § 6.4.1; Seminole Agreement § 6.4.1.

²⁶ See Application for Change in Rates filed November 2, 1992 in Docket No. ER90-164-003. The "all-in" rate is the rate based on the coupon rate plus a yield needed to recover applicable transaction costs.

Services, as a wholly owned subsidiary of TECO Energy, will issue no publicly available common stock for which a discounted cash flow ("DCF") cost of common equity could be calculated."²⁷ Because HPP has not issued publicly available common stock, HPP has completed an analysis of the financing of the first phase of the 2003 Capacity Additions as if those additions were constructed and owned by Tampa Electric. In order to compare the rates charged by HPP to traditional cost-based rates, HPP has prepared a simple revenue requirements model set forth as Exhibit C, Tab 5. In this model, the capital structure consists of 37.2% debt (with a pre-tax rate of 7.0%) and 62.8% equity. These figures are equal to Tampa Electric's capital structure and average costs of borrowing as of December 31, 1998. In addition, this model utilizes a 11.75% cost of equity which is Tampa Electric's current midpoint return on equity allowed by the FPSC. This capital structure results in an overall weighted cost of capital of 9.98%.

In this model, the average rate base is multiplied by the weighted cost of capital to derive the allowed return on rate base. The allowed return on rate base is then grossed up for income taxes and increased by property taxes, insurance, administrative and general expenses, and depreciation to derive the revenue requirement in each year. Since fuel expenses and operation and maintenance expenses are not recovered through the capacity payment, they are not included in this model. The present value of the revenue requirements through the year 2012 is \$50,042,000 using a 9.98% discount rate or \$7,099,000 on an annual levelized basis. The present value of the capacity charges to be paid by Tampa Electric to HPP for the capacity from the first phase of the 2003 Capacity Additions using the same discount rate and term is \$38,195,000, which is equivalent to a levelized annual payment of \$5,419,000. Thus, Tampa

²⁷ TECO Power Services Corporation, 53 FERC ¶ 61,202 at 61,811.

Electric's levelized payment to HPP is in excess of twenty percent lower than the revenue requirements associated with traditional utility financing and rate base treatment.

This analysis, therefore, demonstrates that the rates for the capacity from the first phase of the 2003 Capacity Additions are reasonable when compared to revenue requirements conventionally calculated on the basis of Tampa Electric's capital structure, an appropriate interest rate, and an equity return rate based on Tampa Electric's currently allowable equity return. In fact, use of Tampa Electric's midpoint allowed equity return significantly understates the cost of capital because the Hardee Power Station has significantly higher financial and business risks than a typical, utility-owned unit.

As the Commission is well aware, independent power projects have a unique set of financial risks which influence what rate of return is reasonable. Independent power projects are normally financed as stand-alone entities. As such, the risks borne by the investors are greatest through construction and start-up, during which time investors are generally at risk that the project will not be completed on time, on budget, or in accordance with specified performance standards set forth in the relevant power contract. It is significant that during this phase there are no project revenues. Only after the project is operating at contracted levels will payments begin. This difference between the time when risks are incurred and when returns are generated requires that returns be evaluated at the outset for the total life of the project. The lenders look only to the cash flows and debt service coverage ratios of the project in analyzing the debt repayment stream. The equity investors also look exclusively to the cash flows of the project for their equity returns since all available cash, after payment of expenses and debt service, is distributed to the project's equity participants. Accordingly, projects are normally evaluated by equity investors in terms of an overall project internal rate of return. The internal rate of return measures the percentage rate at which the present value of the expected series of cash flows

recovers the initial equity invested. Given the risk inherent in an independent power project, HPP's projected internal rate of return is reasonable.

In addition, the Commission's approval of the rates contained in the Fourth Amendment to the Tampa Electric Agreement is consistent with the Commission's recent order in Nevada Sun-Peak Limited Partnership.²⁸ Like HPP, Nevada Sun-Peak is a single asset utility with a long-term power purchase agreement accepted by the Commission as a cost-based rate schedule. On December 21, 1998, Nevada Sun-Peak filed an amendment to that agreement that, among other things, increased the output of Nevada Sun-Peak's generating station. The capacity rates for the additional capacity represented a significant decrease from the rates applicable to the existing capacity. While the Commission denied Nevada Sun-Peak's request for market-based rates, the Commission did accept the amended power sales agreement as a stand-alone rate schedule. The Commission cited the lower rates for the additional capacity as justification for accepting the amended power sales agreement. It is noteworthy that the Commission did not require that Nevada Sun-Peak file cost-of-service data in accepting the agreement for filing.

The same reasoning should apply to the Fourth Amendment of the Tampa Electric Agreement filed in the instant proceeding. As discussed above, the expansion of the Hardee Power Station was expressly provided for in the Agreements accepted for filing by the Commission in Docket No. 90-164-001, and the unit capacity rate for the capacity added through the first phase of the 2003 Capacity Additions is significantly less than the rates determined by the Commission to be just and reasonable in the earlier proceeding. In addition, HPP has provided substantial cost-of-service data in support of this filing, more than was necessary in the

²⁸ 86 FERC ¶ 61,243 (March 10, 1999) ("Nevada Sun-Peak").

recent Nevada Sun-Peak order. Therefore, consistent with Commission precedent, the Commission should accept these rates for filing.

IX. REQUEST FOR PRIVILEGED TREATMENT

Pursuant to Section 388.112 of the Commission's regulations,²⁹ HPP requests that portions of this Petition and the attached exhibits submitted herein be withheld from public disclosure. The portions to which this request relates have been marked in this Petition and have been indicated on the Exhibits with heavy brackets in the original of this filing and have been redacted from each of the copies of the filing submitted to the Commission. These portions deal with the costs that HPP incurs and the financial obligations it will assume with respect to the construction and the financing of the first phase of the 2003 Capacity Additions. This information is proprietary in nature and, if publicly disclosed, could cause competitive harm to HPP. Hence, this information is exempt from mandatory public disclosure under exemption (4) to the Freedom of Information Act.³⁰

X. REQUEST FOR WAIVERS

HPP requests the following waivers and preapprovals previously granted to single-asset utilities similar to HPP:

- (a) waiver of the accounting and other requirements of Parts 41, 101, and 141 of the Commission's regulations;
- (b) waiver of Part 45 of the Commission's regulations regarding interlocks, provided that HPP files abbreviated statements thereunder;

²⁹ 18 C.F.R. § 112 (1998).

³⁰ 5 U.S.C. § 552(b)(4).

- (c) waiver of Subparts B and C of Part 35 of the Commission's regulations as to this filing, except sections 35.13(b), 35.15 and 35.16; and
- (d) blanket authorization of all future issuances of securities and assumptions of liabilities.

While these waivers for the Power Sales Agreements were originally denied by the Commission,³¹ the Commission has recently approved these waivers in a proceeding with factual circumstances similar to those described herein. The Commission concluded in Nevada Sun-Peak that single asset utilities with fixed rate contracts do not need to be subjected "to the full measure of [the Commission's] traditional regulatory requirements."³² Likewise, HPP, as a single asset utility with long-term contracts in place, should not be subject to these regulatory requirements. Therefore, the above-listed waivers should be granted.

Furthermore, HPP requests a waiver of the 60-day notice requirement in section 35.3 of the Commission's regulations to allow the Amendments to become effective on or before November 1, 1999. HPP also requests any other waiver of the Commission's regulations necessary to allow the Amendments to become effective on that date.

XI. REQUEST FOR EXPEDITED TREATMENT

It is imperative that the regulatory review and approval of the Fourth Amendments be expedited so that Tampa Electric may meet the electrical demands of its customers. Tampa Electric requires additional generating capacity by the summer of 2000 in order to serve its customers. If this demand is not met, Tampa Electric's customers could experience increased electricity prices resulting from the company's purchase of incremental power from other

³¹ TECO Power Services, Corporation, 53 FERC ¶ 61,202.

³² Nevada Sun-Peak Limited Partnership, 86 FERC ¶ 61,243 at 61,874.

sources. Accordingly, Tampa Electric has requested that HPP accomplish an in-service date of May 15, 2000 to satisfy the anticipated energy demands of Tampa Electric's customers. This timeframe requires that the construction contractor be released for site construction activities by November 15, 1999. Presently, HPP has located generating equipment which can be placed into service by May 15, 2000 and meet Tampa Electric's capacity need, provided that the necessary regulatory approvals are granted in a timely manner.

Furthermore, the loan documents related to the existing HPP assets require that a number of items be delivered to the lenders before any new construction at the Site can commence, and Commission approvals are an integral component of satisfying the completion of such items. An expedited Commission review would ensure adequate time between the approval date and construction start date for all the necessary documentation to be filed with and reviewed by the lenders.

For these reasons, HPP requests that the Commission approve the Fourth Amendments by November 1, 1999.

XII. EXHIBITS

The following supporting exhibits are attached to this Petition:

Exhibit A: Amendments

Tab 1: Fourth Amendment to Power Sales Agreement between HPP and Seminole

Tab 2: Fourth Amendment to Power Sales Agreement between HPP and Tampa Electric

Exhibit B: Diagram of the Hardee Power Station, including the 2003 Capacity Additions

Exhibit C: Cost Support for Rates under the Fourth Amendment to the Tampa Electric Agreement

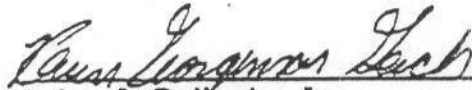
- Tab 1: Summary of Financial Information [Contains Privileged Information]
- Tab 2: Income Statement [Contains Privileged Information]
- Tab 3: Projected Cash Flow [Contains Privileged Information]
- Tab 4: Projected Capital Costs [Contains Privileged Information]
- Tab 5: Revenue Requirement Model [Contains Privileged Information]
- Exhibit D: Rate Comparison Between Existing Facilities and First Phase of the 2003 Capacity Additions [Contains Privileged Information]
- Exhibit E: Purchasing Utilities' Letters of Concurrence to Petition
- Exhibit F: Parties served with a copy of this Petition
- Exhibit G: Form of Notice
- Exhibit H: Certificate of Service

XIII. CONCLUSION

For the reasons stated above, Hardee Power Partners Limited respectfully requests that the Commission accept the rates filed herein as stated in the Fourth Amendments to the Seminole and Tampa Electric Agreements. In order to enable HPP to arrange the necessary financing for

the construction of the first phase of the 2003 Capacity Additions, Hardee Power Partners Limited requests that the Commission act on this filing prior to the expiration of the 60-day period set forth in Section 205 of the Federal Power Act.

Respectfully submitted,



Robert L. DaHeader, Jr.
Karen Georgenson Gach
Nixon Peabody LLP
One Thomas Circle, N.W.
Suite 700
Washington, D.C. 20005
(202) 457-5300

Dated: September 15, 1999