



Writer's E-Mail Address: bkeating@gunster.com

RECEIVED-FPSC
14 SEP 26 PM 4:55
COMMISSION
CLERK

September 26, 2014

BY HAND DELIVERY

Ms. Carlotta Stauffer
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: New Filing – Petition of Florida Public Utilities Company for Approval of Negotiated Power Purchase Contract with Eight Flags Energy, LLC

Dear Ms. Stauffer:

Enclosed for filing, please find the original and seven copies of Florida Public Utilities Company's Petition for Approval of Negotiated Power Purchase Contract. Portions of the referenced contract and certain attachments are submitted under separate cover, along with a request for confidential classification.

Please do not hesitate to contact me if you have any questions whatsoever regarding this filing.

Sincerely,

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

Cc:/ Jim Dean, Director/Division of Economics

COM _____
AFD _____
APA _____
ECO 2
ENG 3
GCL 2
IDM _____
TEL _____
CLK _____

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Petition of Florida Public Utilities
Company for Approval of Negotiated Power
Purchase Contract with Eight Flags Energy,
LLC**

Docket No.: _____

Filed: September 26 , 2014

Petition for Approval of Negotiated Power Purchase Contract

Florida Public Utilities Company (“Company” or “FPUC”) by and through its undersigned attorney, and pursuant to Chapter 366, Florida Statutes, and Rules 28-106.201, 25-17.0832, Florida Administrative Code, hereby petitions the Florida Public Service Commission (“Commission”) for approval of a Negotiated Contract for power purchases (“Contract”) with Eight Flags Energy, LLC (“Eight Flags”) which is dated and effective September 26, 2014. FPUC respectfully requests that this Contract, which is attached and incorporated herein (Attachment A – redacted), be approved without modification.

BACKGROUND

In support of this Petition, the Company hereby states:

1. Notices and communications with respect to this petition and docket should be addressed to:

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 S. Monroe Street, Suite 601
Tallahassee, FL 32301-1804

Ms. Cheryl M. Martin
Director of Regulatory Affairs
Florida Public Utilities Company
911 South 8th Street
Fernandina Beach, FL 32034

2. FPUC is an investor-owned electric utility providing retail electric service to customers within its Northwest and Northeast Divisions in Florida and, pursuant to the

Petition for Approval of Negotiated Contract by FPUC

provisions of Chapter 366 of the Florida Statutes, it is subject to economic regulation by the Commission. The Company's principal offices are located at 1641 Worthington Road, Suite 220, West Palm Beach, Florida 33409.

3. FPUC was originally incorporated in 1924. Its official name became Florida Public Utilities Company in 1927. On October 28, 2009, FPU was acquired by Chesapeake Utilities Corporation (CUC), a Delaware corporation. CUC also operates the Florida Division of Chesapeake Utilities Corporation, a natural gas utility in Florida, as well as unregulated energy businesses, including its natural gas distribution marketing subsidiary, its propane distribution operations and its propane wholesale marketing subsidiary. With the acquisition of FPUC in 2009, CUC expanded its energy presence throughout the state of Florida. CUC is traded on the New York Stock Exchange (CPK) and has an investment grade bond rating of Category 1, as rated by the NAIC. Its corporate headquarters are located at 909 Silver Lake Boulevard, Dover, Delaware 19904.

4. FPUC provides electric service to approximately 31,000 customers in two distinct service areas. The Company's Northeast Division is headquartered in Fernandina Beach, Florida and serves approximately 16,006 customers located on Amelia Island. The Northwest Division of the Company is based in Marianna, Florida and serves approximately 15,155 customers located in the surrounding counties of Jackson, Calhoun, and Liberty. The Company does not currently own any generation facilities; therefore, it relies upon wholesale contracts for power purchases to meet its operational requirements, including two existing contracts with Qualifying Facilities.

Petition for Approval of Negotiated Contract by FPUC

5. FPUC's substantial interests will be directly affected by the Commission's decision with regard to this Petition in that the Company is seeking approval of the Contract for purposes of cost recovery, consistent with Rule 25-17.0832(3), Florida Administrative Code. Moreover, the rights and obligations of both parties to the Contract are conditioned upon obtaining all applicable and necessary regulatory approvals.

6. Eight Flags, a separate corporate affiliate of Chesapeake Utilities Corporation, is the owner of a planned cogeneration facility to be located at 10 Gum Street, Fernandina Beach, Florida, on a site to be leased from Rayonier Performance Fibers, LLC ("Rayonier"). As set forth in the attached Contract, Eight Flags will construct and install a new "Cogeneration Facility" as that term is defined in 18 CFR 292.202(c) and (e), which is certified by the FERC as a Qualifying Facility ("QF") under federal law, having met the requirements of 18 CFR 292.205 and 292.207. Eight Flags will operate as a QF in accordance with the federal rules, as well as the rules and regulations applicable to such facilities under Florida law. The Eight Flags facility will be readily capable of interconnecting with, and selling power to, FPUC's Northeast Division, because the facility site will be on Amelia Island on property leased from Rayonier at 10 Gum Street in Fernandina Beach, Florida. The Eight Flags facility will consist of a turbine generator that will be fueled by natural gas and will be a cogenerator as that term is employed in Section 366.051, Florida Statutes, and defined in 18 CFR 292.202.

7. FPUC is unaware of any disputed facts associated with its request as set forth herein.

SUMMARY

8. Commission Rule 25-17.082(1), F.A.C. states:

Upon compliance by the qualifying facility with Rule 25-17.087, F.A.C., each utility shall purchase electricity produced and sold by qualifying facilities at rates which have been agreed upon by the utility and qualifying facility or at the utility’s published tariff. Each utility shall file a tariff or tariffs and a standard offer contract or contracts for the purchase of energy and capacity from qualifying facilities which reflects the provisions set forth in these rules.

In this instance, the Company and Eight Flags have negotiated the rates and terms set forth in the Contract; thus, the Company’s REN tariff on file with the Commission does not apply.

9. The Eight Flags facility will have the capability of providing up to 20 MW of electric energy to FPUC. The Contract is for a 20-year term ending on the date that is twenty (20) years after the end of the calendar month in which the Commercial Operation Date (“COD”), as that term is defined in the Contract, is established.¹ The expected annual energy from the facilities is 166,510 MWh. A summary of the Contract is set forth below:

Utility Signatory	Jeffrey M. Householder, President/FPUC
Owner and Operator of QF Signatory	Kevin Webber, Vice-President/Eight Flags Energy, LLC
Committed Capacity	Up to 20 MW
Facility Type	Natural Gas Turbine Generator with Heat Recovery Steam Generator/Topping Cycle Cogenerator
Fuel	Natural Gas
Location	10 Gum Street, Fernandina Beach
Interconnection and Transmission Requirements	13.8 KV bus-work/ 25 MVA substation transformer (complete)
Expected Total Annual Energy	166,510 MWh
Expected On-Peak Annual Energy	58,100 MWh
Expected Off-Peak Annual Energy	108,410 MWh
Avoided Unit/Avoided Power Purchase	166,510 MWh
Expected In-Service Date of Eight Flags Facility	July 1, 2016 (no later than December 1, 2016)

¹ Per the Contract, the COD shall be no later than December 1, 2016, unless otherwise agreed by the parties.

Petition for Approval of Negotiated Contract by FPUC

10. Currently, FPUC's Northeast Florida Division fulfills its energy needs through wholesale power purchase contract with JEA, as well as contracts with Rayonier and RockTenn². Likewise, the Northwest Division purchases power from Gulf Power Company. The Company's new Contract with Eight Flags provides, however, an excellent opportunity to add a reliable and substantial generation source to FPUC's power supply portfolio that is not only located on the Island, but will provide power to the Company on a cost-effective basis. Indeed, the Eight Flags facility provides a very favorable value proposition for the Company's customers, because the all-in cost of power provided by the Eight Flags facility will not exceed FPUC's "avoided cost" of the all-in cost of purchased power from JEA, nor will it exceed the all-in cost for the combined Northeast and Northwest Divisions, in the event the Company's separate request in Docket No. 140001-EI to consolidate its fuel rates is approved by the Commission. The commercial terms under the Eight Flags Contract, have a comparative cost advantage, ensuring that the Company's retail consumers in both Divisions obtain net benefits in the form of lower electricity bills. Thus, the purchases under this Contract will allow FPUC to significantly reduce its costs for electric energy from its firm capacity providers with the net result being lower costs for electric energy for the Company's retail consumers across both divisions.

11. In sum, the Company respectfully requests that the Commission approve this Contract for purposes of cost recovery, because the Contract is consistent with Rule 25-22.0832(3), F.A.C. As more fully set forth herein, the Contract is: (1) necessary to ensure reliability for FPUC's customers; (2) is less than the cumulative present worth of the "all in" cost

² Rayonier and RockTenn are both paper mill/wood pulp facilities located on Amelia Island, which are certified Qualifying Facilities that provide power to FPUC.

Petition for Approval of Negotiated Contract by FPUC

contract, the non-fuel component will be recalculated for the next five (5)-year period. As an additional protection, the Contract also provides that, at each five-year review interval, FPU will be allowed to audit Eight Flags' O&M expenses for the prior period and review the calculation of the revised O&M component that is included in the Non-Fuel Charge. The Contract further provides that FPUC will receive a credit to Fuel Charge component of the bill in an amount that is a specified percentage of the gross revenues derived from the sale of steam by Eight Flags in the prior month.

13. The Contract includes provisions that provide pricing protections for FPU's customers. Specifically, the Contract provides that, in the event that Eight Flags fails to provide the minimum contracted quantity of electric energy to FPU, FPU will reduce the amount paid to Eight Flags for the energy that Eight Flags does provide by an amount that is the difference between what FPU would have paid Eight Flags for the amount of the shortfall and that which FPU paid to another provider in order to make up the difference. The Contract also provides an additional price protection by mandating that fuel costs passed through to FPU through the fuel component of the contract will be based on an industry standard index. FPU will also have the right to review periodically the basis for the fuel costs it is assessed.

14. Attachment B (redacted) to this Petition is a summary of the projected annual savings under the Contract as compared to the relevant purchased power agreements between FPUC and its wholesale providers. This Attachment also reflects the projected annual savings

party service provider, which contract is currently contemplated to be for a 5-year term with an opportunity to renew. The Company believes that the methodology for computing the non-fuel charge over the 5-year period will smooth out any potential increases that might occur at the end of the 5-year period as a result of contract renegotiations.

Petition for Approval of Negotiated Contract by FPUC

when compared to the Company's total projected future purchased power costs for the Northeast Division.

15. With regard to interconnection, FPUC has performed the necessary preliminary technical reviews and believes that interconnection with Eight Flag's facility can be accomplished safely, and without adverse effects on the capability of the Company's system to safely and reliably serve its other customers. (*See Attachment C*)

16. In addition, the Contract specifically requires that electric meters shall be installed and checked annually to ensure that the meters conform to accepted metering tolerances of the industry. The Contract provides for an appropriate true-up process for billings associated with meters shown to be outside tolerance limits; thus, customers are adequately protected from overpaying for electric energy not actually received from Eight Flags.

17. Likewise, the Contract provides that FPUC will not be required to accept delivery, and pay for, power that could impair system reliability and safety; thus, FPUC and its ratepayers are protected from incurring unnecessary costs. Eight Flags will only be compensated for energy that is actually accepted and metered by FPUC.

18. The Contract also includes provisions, as mentioned above, to ensure that power purchases under this Contract do not impair FPUC's ability to provide safe and reliable service to its customers. Moreover, the commercial terms of the Eight Flags contract results in direct,

Petition for Approval of Negotiated Contract by FPUC

measurable savings for FPUC and its customers and is designed such that charges under the Contract will not exceed the avoided cost under the current purchased power agreements.

19. In addition to its inherent cost effectiveness, the Eight Flags facility will increase the reliability of electric service in Fernandina Beach and Amelia Island, in view of its “on the island” proximity. This is an integral benefit of the new Eight Flags facility. The Eight Flags facility will have the capability to serve a significant portion of the Northeast Division’s base load needs, which will enable FPUC to provide reliable service to its customers at a reduced risk of notable outages during tropical storm and hurricane events, as well as other valuable reliability benefits.

20. Currently, the Northeast Division’s Amelia Island service territory is served radially from the bulk transmission system in Florida. Once the Eight Flags facility is operational, FPUC and its customers in the Northeast Division will no longer depend entirely upon the structural integrity of the radial, eight-mile, 138kV electric transmission line running across a marshy area and the Intracoastal Waterway for reliable power for the Northeast Division. Instead, a significant portion of the electricity for FPUC’s customers will be produced on Amelia Island, as opposed to nearly 40 miles away, which will significantly improve reliability, as well as reduce the impact of line losses. Moreover, the Eight Flags facility will be specifically designed to handle severe storm surge conditions with the gas turbine, critical switchgear, and auxiliary equipment elevated 10 feet above grade and capable of serving essential Island services, such as hospital, fire, police, water and sewer, following a severe storm.

Petition for Approval of Negotiated Contract by FPUC

21. Another added benefit of the Contract is the fact that purchases from the new Eight Flags facility will significantly reduce FPUC's environmental profile, because the power generated by Eight Flags will be from an efficient natural gas generator, it can be expected to reduce environmental degradation attributable to particulate matter, CO², NO_x, VOC, SO² and mercury.

22. The construction of the new facility will also generate approximately eight (8) jobs over the construction period, as well as at least four (4) longer-term positions associated with the operation of the facility.

23. Finally, an additional, notable benefit of this Contract is the fact that it will provide an opportunity for FPUC to receive more low-cost power from Rayonier Performance Fibers ("Rayonier") under the Company's existing purchased power agreement with Rayonier.⁶ As noted previously, the Eight Flags facility will be co-located at the site of Rayonier's Fernandina Beach mill ("Mill"). The Eight Flags facility will include a Heat Recovery Steam Generator (HRSG), in addition to the natural gas turbine, which will take waste heat and convert it to low pressure steam. The Mill will take steam from the Eight Flags facility under a separate contract. This additional steam will be used the Mill's industrial process, displacing high-pressure steam generated by Rayonier itself. This displaced steam produced by Rayonier will then be available to increase the electric power production of Rayonier's electric generator at the Mill. In turn, this additional power will be sold to FPUC under the previously referenced approved FPUC/Rayonier contract.

⁶ The Company's agreement with Rayonier was approved by the Commission by Order No. PSC-12-0380-PAA-EQ, issued July 23, 2012, in Docket No. 120058-EQ.

Petition for Approval of Negotiated Contract by FPUC

24. As demonstrated, the rates, terms and conditions of the Contract will contribute to deferral of purchases under the JEA contract at a measurable savings to FPUC's ratepayers when compared to that contract, as well as the Company's purchased costs on a consolidated basis. Moreover, purchases under this contract will provide additional key benefits, which include: 1) increased investment in the State and facilitating job creation in Northeast Florida; 2) diversification of FPUC's purchased power options; 3) an additional means to lessen the impact of fuel price volatility on the FPUC's customers in the Northeast and Northwest Divisions; and 5) significantly improved service reliability for FPUC's Northeast Division. Power purchases by FPUC under this Contract will be passed along equitably to FPUC's customers via the Company's fuel and purchase power rates.⁷ Overall electricity bills paid by the Company's retail customers in both Divisions will decline once the Contract with Eight Flags is put in place. Accordingly, the Contract is in the public interest and should be approved as such for purposes of cost recovery through the Commission's fuel and purchased power cost recovery clause.

25. Overall, the Contract between FPUC and Eight Flags provides significant benefits to FPUC's ratepayers consistent with the benefits anticipated by the Florida Legislature in passing Section 366.051, Florida Statutes. Likewise, the Contract fulfills Congressional objectives reflected in the Public Utility Regulatory Policy Act of 1978⁸, and is consistent with the amendments made thereto by the Energy Policy Act of 2005.⁹

⁷ It is also worth noting that Rayonier will also receive the benefit of reliable, reasonably priced steam for its processes, which will support the ongoing viability of a significant economic contributor to Amelia Island.

⁸ Public Law 95-617 (HR 4018) November 9, 1978.

⁹ As the Commission has noted, "PURPA endorsed three broad national purposes: (1) conservation of electric energy, (2) increased efficiency in the use of facilities and resources by electric utilities, and (3) equitable rates for electricity consumers." 2012 Review of 10-Year Site Plans (Florida Public Service Commission, December 2012 at page 23).

RELIEF REQUESTED

26. For all the foregoing reasons, FPUC respectfully asks that the Commission approve the Contract for purposes of cost recovery through the Commission's fuel and purchased power cost recovery clause.

27. The Company further respectfully asks that the Commission consider this Agreement at its December 16, 2014 Agenda Conference. This expedited treatment will serve two purposes. First, it will enable the Commission to consider the full benefits of this project during the same meeting, because the related Amendment No. 1 to FPUC's Negotiated Contract with Rayonier Performance Fibers, which is being addressed in Docket No. 140180-EG, is currently scheduled for consideration at that same Agenda Conference. Second, in Order to meet certain operational requirements in the Agreement, Eight Flags must place its order with the equipment supplier on or before January 1, 2015. A vote by the Commission approving the Agreement prior to that date will avoid placing the Agreement timeline in jeopardy. In furtherance of this request, the Company commits to providing responses to any data requests from Commission Staff on an expedited basis and to make pertinent personnel from Eight Flags and the Company available for informational meetings as may be necessary.

28. The Commission is vested with jurisdiction to grant the relief requested herein by Sections 366.04, 366.06, 366.051, as requested in accordance with Rule 25-17.0832, Florida Administrative Code.

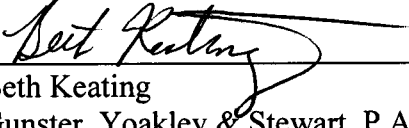
WHEREFORE, for the reasons set forth herein, FPUC respectfully requests that the

Petition for Approval of Negotiated Contract by FPUC

Commission:

1. Consider this Negotiated Contract at the Commission's December 16, 2014 Agenda Conference; and
2. Approve the Negotiated Contract with Eight Flags Energy, LLC as being a reasonable and prudent agreement for purposes of cost recovery through the Commission's Fuel and Purchase Power Cost Recovery Clause.

RESPECTFULLY SUBMITTED this 26th day of September, 2014.


Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

ATTACHMENT A
(redacted)

***NEGOTIATED POWER PURCHASE CONTRACT
BETWEEN
FLORIDA PUBLIC UTILITIES COMPANY
AND
EIGHT FLAGS ENERGY, LLC***

NEGOTIATED CONTRACT
BETWEEN
FLORIDA PUBLIC UTILITIES COMPANY
AND
EIGHT FLAGS ENERGY, LLC
FOR THE PURCHASE OF
ELECTRIC ENERGY FROM A QUALIFYING FACILITY

This Negotiated Contract for the Purchase of Electric Energy from a Qualifying Facility, which incorporates and includes any Appendices, Exhibits and Attachments hereto, (collectively, the "Agreement") is made this 26th day of September, 2014 ("Execution Date"), by and between Florida Public Utilities Company, an investor-owned utility company and subsidiary of Chesapeake Utilities Corporation (hereinafter "Buyer") and Eight Flags Energy, LLC, the owner/operator of the Qualifying Facility ("QF"), as further defined below (hereinafter "Seller"). Buyer and Seller may herein be referred to jointly as "Parties" or individually as "Party".

WITNESSETH:

WHEREAS, Seller's QF is located at 10 Gum Street, Fernandina Beach, Florida, on the property of Rayonier Advanced Materials, Inc., is designed and constructed to provide up to 20 (approximately) megawatts (MW) of net electric output not needed for the use of Seller's own operations, and is situated at a location electrically interconnected with the electric transmission system owned and operated by Buyer; and

WHEREAS, Seller's QF has been certified as a Qualifying Facility, as defined under Federal law, and is a cogenerator under the Chapter 292 of the Rules of the Federal Energy Regulatory Commission ("FERC") and as contemplated by Section 366.051, Florida Statutes, and

WHEREAS, Seller desires to generate and sell Electric Energy from the QF to Buyer and Buyer desires to receive and purchase the same from Seller, in accordance with the terms and conditions of this Agreement; and

WHEREAS, Seller is able to supply Electric Energy and Capacity to Buyer at or below the full avoided cost that would otherwise be incurred by the Buyer in transactions for the same quantities of Electric Energy and Capacity under its existing power purchase agreement with JEA; and

WHEREAS, Buyer, as utility under Chapter 366, Florida Statutes, is obligated to purchase power from certified QFs under both Florida and federal law; and

WHEREAS, the transactions described herein comply with both state and federal law; and

WHEREAS, the purchase of Electric Energy and Capacity under this Agreement will provide significant savings for the Buyer, which will inure to the benefit of Buyer's customers; and

WHEREAS, the transactions arising hereunder contemplate no sale of electricity other than of surplus Electric Energy and Capacity to Buyer, a utility;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be bound hereby, the Parties do therefore agree as follows:

1. DEFINITIONS

1.1 Defined Terms

Unless otherwise defined herein, the following terms shall have the following meanings:

"Affiliate" shall mean, with respect to any specified Person (other than a natural person), any other Person who, directly or indirectly, through one or more intermediaries, owns or controls, is under common ownership or control with, or is owned or controlled by, such Person.

"Agreement" means this Negotiated Contract for the Purchase of Electric Energy from a Qualifying QF, and the Appendices, Attachments, and other Exhibits thereto, as may be amended from time to time.

"Applicable Law" means any and all constitutions, charters, acts, statutes, laws (including, but not limited to, all environmental laws), decrees, ordinances, rules, codes, regulations, orders, conditions, standards and/or objective criteria applicable to this Agreement or to any Party's obligations, performance, or rights under this Agreement and/or contained in any final decree, judgment or order of any court or Governmental Body of competent jurisdiction.

"Business Day" shall mean any day on which commercial banks are authorized to open for business in Jacksonville, Florida.

"Buyer's Electric Energy" means the firm supply of electric energy (expressed in MWhs) available to Buyer during any hour in any Delivery Month from any generating or other source which it owns, leases or controls under contract (but for the avoidance of doubt excluding any source of electric energy supply available on the spot market) to serve its Native Load Obligation.

"Capacity" means the capability to produce Net Energy Supply. Capacity is measured as kilowatts (kW) or thousandths of megawatts (0.001 MW).

"Capacity Commencement Status" means that (i) the QF is in compliance with all applicable project consents and governmental approvals for the QF required to be obtained from any Governmental Body; and (ii) the QF has maintained an hourly MW output level, as metered at

the Delivery Point, equal to or greater than the Committed Capacity over a continuous four (4) hour Test Period.

“Charges” shall have the meaning set forth in Section 9 of this Agreement.

“Commercial Operation Date” shall mean the date identified in a written notice from Seller to Buyer as the date upon which Electric Energy deliveries (other than test deliveries) will commence under this Agreement, which shall be no later than September 30, 2016, unless otherwise agreed in writing by the Parties, or as otherwise provided in Sections 2(b) and 7. Upon the Commercial Operation Date, the obligations of Buyer, including compensation, begin to accrue and be paid with corresponding and subsequent flow of compensation and payment over the Term of this Agreement.

“Committed Capacity” means the electrical Capacity of the QF which Seller is obligated to provide hereunder. The Committed Capacity under the Agreement is up to 20 MW measured on average annual basis, and is subject to increases or decreases in accordance with Section 7.

“Costs” means, with respect to a non-defaulting Party, brokerage fees, commissions, third party transaction costs, and other costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations hereunder or entering into new arrangements which replace the terminated transactions(s) herein contemplated, and all attorneys’ fees and other legal costs incurred by the non-defaulting Party in connection with such termination and replacement of such transaction(s).

“Declined Energy” shall have the meaning set forth in Section 12 of this Agreement.

“Delivery Month” shall mean beginning at 9:30 AM on the last business day of a calendar month and continuing through 9:30 AM on the last business day of the following calendar month. Should the term of this Agreement extend beyond the term of Buyer’s current power purchase agreement with JEA (a copy of which has been delivered to Seller), the Delivery Month will be changed to coincide with the timing of those delivery requirements provided under any replacement power purchase agreement entered into between Buyer and a successor wholesale power provider.

“Delivery Point” shall mean, for Electric Energy produced at the QF, the Interconnection Point, as defined below, which is the point at which the Seller’s QF is directly interconnected to Buyer’s transmission system.

“Execution Date” shall be defined herein consistent with the first paragraph of this Agreement.

“Electric Energy” or “Energy” shall mean kilowatt hours or megawatt hours of electricity produced or generated from the QF, and of the character commonly known as three-phase, sixty hertz at a nominal voltage (+/- 5%), as stated.

“F.A.C.” means the Florida Administrative Code.

“Facility” means the combined heat and power facility to be constructed by Seller at 10 Gum Street, Fernandina Beach, Florida.

“Force Majeure Event” means an event, condition, or circumstance described in Section 14.

“Forced Outage” shall mean a reduction of, or cessation in the delivery of, or inability to deliver, Electric Energy that is not the result of (a) a Planned Outage, (b) a Force Majeure Event, or (c) an emergency condition.

“FPSC” means the Florida Public Service Commission, and shall include any similar or successor Governmental Body having the same or similar jurisdiction.

“Fuel” means natural gas in gaseous form provided by pipeline.

“F.S.” means the Florida Statutes.

“Generation Services” shall mean Electric Energy produced by Seller’s QF and purchased by Buyer under the Agreement. Generation Services are identifiable, measurable, and transferable property rights. Electric Energy is measured as kilowatt hours (kWh) or thousandths of megawatt hours (MWh); all other services (Ancillary Services) are measured as kilowatts (kW), kilowatt hours, megawatt hours, or kilovolt-amperes-reactive (kVar).

“Governmental Body” shall mean any United States federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, court, commission or other authority lawfully exercising or entitled to exercise any administrative, executive judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

“IEEE” means the Institute of Electrical and Electronic Engineers, Inc.

“Interconnection Facilities” shall mean the substation facilities connecting Seller’s Facility to Buyer’s electrical system.

“Interconnection Point” shall mean, for the QF, the busbar connection to the high side of the QF’s step-up transformer(s) where Electric Energy shall be delivered (Delivery Point) to Buyer’s transmission system.

“Interest Rate” shall mean, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day, on the most recent preceding day

on which published), plus two percent (2%); and, (b) the maximum rate permitted by applicable law.

“Native Load Obligation” means, at any point in time, the aggregate obligations (expressed in MWhs) applicable to Buyer under any Applicable Law (whether pursuant to a requirement thereof or the exercise of any franchise or other authority granted thereunder) or under any contract or other agreement permitted under Applicable Law to provide electricity supply to retail end-users, wholesale, industrial or other customers, whether in a specified geographic territory or otherwise.

“Net Energy Supply” means the Electric Energy produced by Seller’s QF and delivered to Buyer under the Agreement. Net Energy Supply is always a positive (greater than zero) amount.

“Person” shall mean an individual corporation, limited liability company, partnership, association, trust, unincorporated organization, joint venture, Governmental Entity, other entity or group.

“Planned Outage” means a scheduled outage that may require removal of the QF, in whole or in part, from service in order to perform specified work on specific components of the QF. A Planned Outage has a pre-determined start date, an estimated duration, which may last for several weeks, and occurs as scheduled in a notice given by Seller to Buyer in accordance with Section 11. A Planned Outage shall not include a minor reduction in the Capacity of the QF to address unplanned maintenance or operational requirements.

“Point of Metering” shall mean the Delivery Point or other point(s) where the Electric Energy being made available for delivery to Buyer is measured.

“QF” shall mean the generating QF that satisfies the definition of, and qualifies as, a “cogenerator” and “qualifying facility” under FERC Rules, as those definitions are in effect on the Execution Date of this Agreement, and is owned by Eight Flags Energy, LLC.

“Start-Up” means the ignition of the QF, for the purpose of synchronization of the electrical output of the QF to Buyer’s transmission system to produce Net Energy Supply.

“Steam Agreement” means the Negotiated Steam Supply and Purchase Agreement between Eight Flags Energy, LLC and Rayonier Performance Fibers, LLC, executed September 8, 2014, as the same may be amended from time to time.

“Tax Credits” means the Investment Tax Credit under Section 48 of the Internal Revenue Code, the Production Tax Credit under Section 45 of the Internal Revenue Code, as the same may be amended, supplemented, extended or replaced from time to time, and including all successor enactments or legislation relating thereto, and including any tax incentives which may be available under Florida law (including without limitation under the Capital Investment Tax

Credit under Section 220.191 F.S.) and any cash grant which may be issued in lieu thereof or other benefit under the American Recovery and Reinvestment Act of 2009 (and any regulations issued thereunder) and any other similar tax credit, subsidy, incentive or benefit available to Seller as the owner of the QF under any other Applicable Law.

“Termination Date” means the hour, day, month, and year that the flow of Generation Services ceases, consistent with Section 2 of this Agreement.

“Weekend Days” means Saturday and Sunday, as well as New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day.

1.2 Interpretation

(a) Words singular and plural shall be deemed to include the other, and pronouns having masculine or feminine gender shall be deemed to include the other.

(b) Article or section headings appearing in this agreement are inserted for convenience only and shall not be construed as interpretations of text.

(c) Any reference in this Agreement to any Person, whether or not a Party to this Agreement, includes its permitted successors and assigns and, in the case of any Governmental Body, any Person succeeding to its functions and capacities.

(d) Any reference in this Agreement to any Section, Attachment, Exhibit or Appendix means and refers to the Section contained in, Attachment, Exhibit or Appendix attached to, this Agreement.

(e) Other grammatical forms of defined words or phrases have corresponding meanings.

(f) A reference to writing includes typewriting, printing, lithography, photography, electronic mail, and any other mode of representing or reproducing words, figures or symbols in a lasting or visible form.

(g) Unless otherwise provided, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

(h) A reference to a document, code, contract or agreement, including this Agreement, includes a reference to that document, code, contract or agreement as novated, amended, modified, revised, supplemented, replaced or restated from time to time in accordance with the relevant provisions thereof.

(i) Unless otherwise expressly provided for as set forth herein, if any payment, act, matter or thing hereunder would occur on a Day that is not a Business Day, then such payment,

act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next succeeding Business Day.

(j) Where reference is made to an Applicable Law, such reference, to give meaning to the intent of the Parties hereto, shall be deemed to include all prior and subsequent enactments, amendments and modifications pertaining thereto.

(k) Any reference to the words "include and including" shall be interpreted to mean "including without limitation."

2. TERM OF THE AGREEMENT AND TERMINATION

(a) This Agreement shall be in full force and effect as of the Execution Date and shall continue to remain in full force and effect for a period ending on that date which is twenty (20) years after the end of the calendar month in which the Commercial Operation Date is established by Seller, unless otherwise extended or terminated earlier in accordance with the provisions of this Agreement, including, without limitation, due to Seller's failure to satisfy the conditions precedent set forth herein.

(b) Seller may terminate the Agreement by notice given to Buyer at any time prior to the Commercial Operation Date, without penalties, should Seller be unable to:

(i) satisfy the conditions precedent set forth in Sections 4 (a)-(d) hereof which are applicable to it;

(ii) secure, through reasonable due diligence and effort, the necessary permits associated with construction, property use, environmental compliance, and public safety of the QF; or

(iii) complete any Interconnection Facilities required to deliver Generation Services hereunder; provided that, upon Seller's failure to secure the necessary permits or to complete the requisite Interconnection Facilities, Seller can extend the Commercial Operation Date for six (6) months by notice given to Buyer within six (6) months following the Execution Date of the Agreement.

(c) If Seller fails to achieve the Commercial Operation Date for any reason (other than as addressed in Sections 2(b) and 7 or to the extent prevented by Force Majeure), Buyer may notify Seller in writing of its intent to terminate the Agreement. Within thirty (30) days of Seller's receipt of such notice, Seller shall provide a written report to Buyer describing the reason(s) for such failure, the action plan that Seller is following to resolve such failure and the date by which Seller commits to resolve the failure and achieve the Commercial Operation Date. If Seller is unable to achieve the Commercial Operation Date within ninety (90) days of providing said written report, Buyer, as its sole right and remedy, shall have the right, but not the

obligation, to terminate this Agreement prior to the end of the term hereof, upon fifteen (15) days' notice.

(e) In the event of any termination of this Agreement pursuant to Sections 2(b) or (c) hereof and notwithstanding any other provision of this Agreement, Seller shall not be considered in default of this Agreement or be liable for any Costs, Losses, damages or other amounts payable to Buyer on account of such termination and Buyer shall have no further rights or remedies against Seller, whether for failure to construct the QF or to deliver Net Energy Supply under the Agreement or otherwise.

3. REGULATORY APPROVALS

(a) The obligations of the Parties hereunder, including but not limited to Buyer's and Seller's respective obligations to perform under this Agreement, shall be conditioned upon Buyer obtaining prior to the Commercial Operation Date any regulatory approvals from Governmental Bodies it, acting in its sole discretion, deems necessary or desirable, including but not limited to a final non-appealable order or other regulatory determination from the FPSC that Buyer shall have cost recovery associated with its performance under this Agreement. If such FPSC regulatory approval is not obtained to Buyer's satisfaction, in its sole discretion, within one hundred eighty (180) days of such request being made to the FPSC (which Buyer agrees to do as promptly as possible after the Execution Date) and in any event prior to the Commercial Operation Date, then this Agreement shall terminate upon fifteen (15) days' notice given by either Party, with neither Party having any liability under this Agreement and neither Party having any further obligations or rights relating to this Agreement other than those obligations which have accrued and remain undischarged as of such date.

(b) Except as expressly contemplated herein, neither the execution of this Agreement nor the consummation of any transactions hereunder, requires the consent or approval of, notice to or recording with, or any other action by a Governmental Body, except with regard to permits.

(c) If the FPSC or any other Governmental Body asserting jurisdiction over the QF issues an order, ruling, decision or regulation which substantively modifies the terms and conditions of this Agreement, so as to result in a material adverse effect on either Party's rights and benefits under this Agreement, each Party (without any diminution of its rights under Section 2 hereof) shall use commercially reasonable efforts and shall cooperate with the other Party to pursue all necessary approvals and authorizations, if any, of the FPSC and such other applicable Governmental Body, to amend the terms and conditions of this Agreement as may be reasonably required in order that the sale and purchase of Net Energy Supply under this Agreement may commence and/or continue; provided that neither Party shall be required to take any action pursuant to this section which is reasonably likely to have a material adverse effect on such Party's rights and benefits under this Agreement. Except as provided herein, neither Party shall seek to terminate this Agreement or request or support administrative or judicial modification of any term hereof without the other Party's prior written consent and, in the event such termination or modification is requested by any other Person, each of the Parties shall

exercise its commercially reasonable efforts (including available legal challenges) in opposition thereto for a reasonable period of time.

(d) In the event of the occurrence of any event described in Section 3(c) above, the Party receiving such order, approval, authorization or evidence of such occurrence shall promptly transmit to the other Party a copy or notice thereof, as appropriate, and each Party shall, within ten (10) calendar days after delivery of such notice, give notice to the other Party whether the terms and conditions of such order, approval, authorization or occurrence are reasonably likely to have a material adverse effect on such Party or its rights and obligations under this Agreement, setting forth the reasons therefor. If the Parties are unable, after the exercise of the efforts and cooperation required pursuant to Section 3(c) to agree to those amendments to this Agreement which will permit the sale and purchase of Net Energy Supply contemplated by this Agreement to commence and/or continue, and to obtain any regulatory authorizations necessary therefor, then either Party shall be entitled to terminate this Agreement in accordance with Section 2 hereof.

4. CONDITIONS PRECEDENT AND ADDITIONAL OBLIGATIONS OF THE PARTIES

(a) The obligations of Buyer to purchase and for Seller to sell Net Energy Supply from the QF pursuant to this Agreement are subject to the satisfaction (or waiver) by Buyer of all of the following conditions:

- i. Any and all approvals from any Governmental Body necessary for Buyer to enter into this Agreement and which are set forth on Appendix B of this Agreement;
- ii. The approval of this Agreement by the Board of Directors of Buyer;
- iii. Regulatory Authority from the FPSC to allow full recovery from Buyer's customers of all payments required to be made by this Agreement consistent with FPSC Order No. 25668 issued February 3, 1992, shall have been obtained and shall have become non-appealable through the lapse of time or otherwise;

(b) This Agreement is contingent upon the QF achieving its status as a certified "Qualifying Facility" by the Federal Energy Regulatory Commission ("FERC") in accordance with Applicable Law.

(c) Buyer shall submit this Agreement and related documentation to the FPSC for approval within ten (10) days of the Execution Date. A descriptive statement of the QF, including capacity, location including road and county in the State of Florida, technology, fuel type, physical attributes, operating constraints (including ramp rates, if relevant), and general operating characteristics, which shall be included in such submission is set forth in Appendix A of the Agreement.

(d) The continuation of this Agreement shall be contingent upon Seller's satisfaction of the following specific conditions necessary for the delivery of Generation Services to the Delivery Point. These conditions include:

i. Completion of, and operability of, any and all electric interconnection facilities and changes thereto (collectively "Interconnection Facilities"), necessary for the delivery of Generation Services to the identified Delivery Point (other than Buyer's meters which are located on Buyer's side of the Delivery Point);

ii. Completion of the installation of any and all physical equipment, software and operational procedures necessary for the transportation, delivery, handling, and processing of Fuel to be used to provide Generation Services;

iii. Demonstration to Buyer's reasonable satisfaction that Seller holds all necessary permits required under Applicable Law of this Agreement to own and operate the QF; and,

iv. Demonstration, to Buyer's reasonable satisfaction, that the QF of Seller has undergone Capacity testing and obtained performance levels that satisfy the commercial operation criteria set forth in Appendix C of this Agreement (consistent with any criteria as set forth in Section 7(a) and 7(b) herein), thus providing Buyer with reasonable assurance that the QF will be capable of providing up to 20 MW of Committed Capacity.

(e) Seller shall maintain in effect over the term of the Agreement all approvals from all Governmental Bodies that have authority and jurisdiction over the QF insofar as necessary:

i. For the construction, development, and operation of the QF in accordance with this Agreement; and

ii. For Seller to otherwise perform its obligations hereunder.

Upon reasonable request from Seller, Buyer shall make commercially reasonable efforts to assist Seller in procuring all necessary approvals from all Governmental Bodies for which Seller is responsible hereunder, provided that any reasonable and documented expenses incurred by Buyer in providing such assistance shall be reimbursed by Seller;

(f) If the Parties are required to make any regulatory filings under the jurisdiction of any Governmental Body, including but not limited to the FPSC, Seller and Buyer each agree to abide by any and all applicable regulatory rulings or orders issued by such authorities.

(g) Notwithstanding the foregoing, a Party shall not be deemed to be in breach of its obligations to acquire any approval or consent from Governmental Bodies to the extent that such Party is in good faith contesting the application, interpretation, order or other legal direction that would mandate a Party to obtain any approval or consent of a Governmental Body or the decision of any Governmental Body with respect thereto.

(h) Seller shall at all times comply with all Applicable Laws to which it or any part of the QF may be subject, including but not limited to:

i all environmental Applicable Laws in effect during the term of this Agreement;

ii all Applicable Laws pertaining generally to Fuel storage, back-up or security or otherwise relating to the generation of Electric Energy.

Notwithstanding the foregoing, Seller shall not be deemed to be in breach of its compliance obligations with respect to any Applicable Laws to the extent that it is in good faith contesting the application, interpretation, order or other legal direction pursuant to which it or the QF would be rendered subject to any such Applicable Laws or the decision of any Governmental Body with respect thereto.

5. REPRESENTATIONS AND WARRANTIES

Each Party to the Agreement represents and warrants to the other Party that as of the Execution Date and throughout the term of this Agreement that:

(a) It is duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its organization or formation and has all requisite power and authority to execute and enter into this Agreement;

(b) It has all authorizations under the Applicable Laws, necessary for it to legally perform its obligations and consummate the transactions contemplated hereunder or will obtain such authorizations in a timely manner prior to the time that performance by such Party becomes due;

(c) The execution, delivery, and performance of this Agreement will not conflict with or violate any Applicable Law or any contract, agreement or arrangement to which it is a party or by which it is otherwise bound;

(d) This Agreement constitutes a legal, valid, and binding obligation of such Party enforceable against it in accordance with its terms, and such Party has all rights necessary to perform its obligations to the other Party in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally and general principles of equity;

(e) It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether or not this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, is capable of assessing the merits of this Agreement, and understands and accepts the terms, conditions, and risks of this Agreement for fair consideration on an arm's length basis;

(f) No Event of Default or event which with notice or lapse of time, or both, would become an Event of Default, has occurred with respect to such Party, and such Party is not Bankrupt and there are no proceedings pending or being contemplated by it, or to its knowledge, threatened against it which would result in it being or becoming bankrupt;

(g) There is no pending, or to its knowledge, threatened legal proceeding at law or equity against it or any permitted Affiliate, that could materially adversely affect its ability to perform its obligations under this Agreement;

(h) Each person who executes this Agreement on behalf of such Party has full and complete authority to do so, and such Party will be bound by such execution.

In addition, Seller makes the following representations and warranties:

(i) Seller has knowledge of all Applicable Laws relating to the QF that must be followed in performing its obligations under this Agreement, and is (or will as of the Commercial Operation Date be) in material compliance with all such Applicable Laws.

(j) The QF will be a cogenerator as contemplated by Section 366.051, Florida Statutes, and as defined in the FERC's Rules at Title 18 C.F.R., Chapter 292, as those definitions are in effect upon the Execution Date of this Agreement.

6. METERING AND INTERCONNECTION QF STANDARDS

(a) Buyer shall install, operate, maintain, and replace (as needed and at its expense) electric meters at its side of the Delivery Point to determine the Net Energy Supply delivered to the Delivery Point by Seller. The meters will be sealed by both Parties, which seals will only be broken by both Parties for inspection, testing or adjustment. The electric meters shall conform to the specifications and commonly accepted practices of the electric utility industry, and shall be checked and tested annually by Buyer in conformance with such practices. Buyer shall provide Seller with not less than fourteen (14) days prior notice of such tests as well as with copies of all test reports and results as soon as they are available.

(b) Buyer shall be responsible for the reading, testing, service, and maintenance of the meter(s) it installs hereunder. Either Party may, from time to time, request a retest of the meters if it has reasonable cause to believe that the accuracy of the meters do not conform to commonly accepted metering tolerances ("Metering Tolerances") used in the electric utility industry. The requesting Party shall pay for any such retest and shall provide the other Party with not less than fourteen (14) days prior notice of such retest. Such other Party will have the right to have a representative present during such retest. The Party requesting any test or retest of the meters hereunder shall pay the full cost and expense of conducting such test or retest, except that if any tested or retested meter is found to be not accurate within Metering Tolerances and such inaccuracy results in a payment being made to either Party, the Party making such payment shall pay the full cost and expense of conducting such tests.

(c) If any tested or retested meter is found to be not accurate within Metering Tolerances, Buyer shall promptly arrange for the correction or replacement of the meter, at its expense, and the Parties shall use the measurements from (any) back-up meters to determine the amount of the inaccuracy. If the back-up meters are found to be not accurate within the Metering Tolerances and the Parties cannot otherwise agree as to the amount of the inaccuracy, the inaccuracy will be deemed to have occurred during the period from the date of discovery of the inaccuracy to the earlier of (i) one-half of the period from such discovery to the date of the last testing or retesting of the meters or (ii) 180 days. Any amounts due by Buyer or to be refunded by Seller as a result of any meter that is not accurate within the Metering Tolerances will be invoiced by such Party within 15 days of the discovery of such inaccuracy, with payment due within 30 days thereafter.

(d) Seller shall obtain and secure any and all Interconnection Facilities on Seller's side of the Delivery Point between Seller's QF and the Delivery Point in a timely manner to satisfy the provisions of this Agreement and shall assume all costs and expenses associated with the same.

(e) Buyer shall ensure, prior to the Commercial Operation Date of the QF that the Interconnection Facilities, completed as necessary by Seller, satisfy the requirements set forth in Appendix D hereto.

7. PURCHASE AND SALE COMMITMENT

Commencing on the Commercial Operation Date and thereafter during the term hereof, Buyer agrees to purchase and Seller agrees to sell and deliver to Buyer all Net Energy Supply at the Delivery Point at a delivery voltage compatible with the operating voltage of Buyer at the Delivery Point.

(a) Committed Capacity shall be designated by Seller in writing prior to the Commercial Operation Date, but shall include a range of up to 20 MW, as measured on an average annual basis.

(b) Service at the point of delivery shall be in accordance with the following criteria:

Phase: Three Phase

Wire: To be determined by Buyer

Cycles: 60 Hertz

Voltage: 13,800 volts

KVA Capacity: 25 MVA

(c) Under no circumstances shall Seller be considered in default of this Agreement or be liable for any Costs, Losses, damages or other amounts payable to Buyer (or be entitled to any other remedy) on account of any failure to deliver Net Energy Supply or Capacity in accordance with this Agreement (including the failure to deliver Net Energy Supply pursuant to Sections 7(b) hereof), whether under tort (including strict liability), contract, statute or any other theory of liability, provided however that the foregoing shall not be construed to limit Buyer's right to terminate this Agreement in accordance with Section 2(c).

(c) Title and risk of loss to Net Energy Supply sold hereunder shall pass to Buyer at the Delivery Point.

8. METER READING, QUANTITIES OF NET ENERGY SUPPLY

(a) Metering Net Energy Supply for the Delivery Month: All Net Energy Supply furnished hereunder shall be measured by suitable meter in accordance with Section 6 hereof. Buyer shall read, or have read on its behalf, the metering equipment at the Delivery Point on a schedule consistent with Buyer's Delivery Month (metering schedule), but no less frequently than monthly.

(b) Maintenance of Metered Data: In electronic form, Buyer shall retain and make available to Seller, the metered amounts of Net Energy Supply for each Delivery Month

9. CHARGES, PURCHASE PRICES, AND PAYMENTS FOR NET ENERGY SUPPLY

9.1 Charges and Adjustments

(a) Rates and Charges

The rates and charges under this Agreement shall consist of two (2) components:

Non-Fuel Charge: The initial Non-Fuel Charge shall be set at [REDACTED]. The Non-Fuel Charge includes a cost of service component for the actual operations and maintenance (O & M) expenses of the facility. The initial O&M component will be based upon Seller's reasonable estimate of actual O&M expenses. The initial and all subsequent recalculations of the O&M component of the Non-Fuel Charge shall be adjusted annually using inflation as measured by the U.S. Bureau of Labor Statistics' Consumer Price Index ("CPI") for the duration of this

Agreement. This O&M component will be subject to true-up and adjustment every five (5) years, but no more frequently, in accordance with Section 9.1 (b) below.

Fuel Charge: The Fuel Charge, expressed on a \$/Dekatherm basis, shall be based upon and incorporate: (1) the commodity price of natural gas for delivery to the Jacksonville, Florida region as published in Platts Inside FERC Gas Market Report (McGraw-Hill) or a similar, industry-respected market index report that is of equivalent reputation or otherwise supplants Platts; (2) the costs for delivery of the commodity to Seller, including applicable capacity charges and imbalance resolution fees that may be assessed by the interstate and intrastate transmission pipeline companies and local distribution company; and (3) any fees assessed by a third-party supply manager, as well as reasonable attorneys' fees and administrative fees, associated with contracting for and acquiring natural gas for purposes of supplying Net Energy Supply pursuant to this Agreement.

Hedging: In no event shall Seller enter into any arrangement or long-term contract for purposes of hedging the cost of the natural gas commodity without express, written consent from Buyer.

(b) Adjustments

At the conclusion of each five (5)-year period under this Agreement, the O&M component of the Non-Fuel Charge will be subject to true-up to actual O&M expenses incurred for the period and adjusted for projected O&M expenses. The revised O&M component will then be used to recalculate the Non-Fuel Charge, which shall be applied in accordance with Section 9.1(a). The O&M component shall also be subject to Audit, as set forth in Section 9.5.

(c) Cost Recovery

If the FPSC rejects or fails to approve in a timely manner any part of Buyer's request to approve its fuel and purchased power related costs based on a Non-Fuel Charge adjustment under this Agreement, and notwithstanding good faith efforts consistent with Section 3(c) of this Agreement, the Parties are unable to negotiate and agree to changes to this Agreement or the adjustment to address the FPSC's concerns, then at Buyer's option, Buyer may terminate this Agreement by providing written notice to Seller at least eighteen (18) months before Buyer's proposed termination date of this Agreement ("Notice Period"). During the Notice Period, the rates applicable under this Agreement shall continue to apply.

9.2 Service Guarantee/Invoice Credit

Seller shall provide Buyer with a Service Guarantee, which is defined as the minimum quantity of Net Energy Supply, measured as megawatt hours, to be delivered to the Delivery Point.

(a) The Minimum Quantity of Net Energy Supply shall be [REDACTED] net Energy output as measured over any twelve (12) month period.

(b) For any Delivery Month in which Seller delivers less than the Minimum Quantity of Net Energy Supply as calculated in accordance with Section 9.2(a), the payment due for the quantity of Net Energy Supply (MWh) that is delivered to Buyer shall be reduced by an amount equal to the difference, if any, between the amount of the payment that Buyer would have made to Seller for the Shortfall amount and the amount the Buyer paid another wholesale power provider to make up for the Shortfall. Buyer's sole and exclusive remedy for Seller's failure to deliver the Minimum Quantity of Net Energy Supply in accordance with this Agreement shall be the pricing adjustments set forth in this Section 9.2(b). For purposes of this Section 9.2(b), "Shortfall" shall mean the difference between the amount of Net Energy Supply delivered to Buyer that is less than the Minimum Quantity and the Minimum Quantity.

(c) Notwithstanding any term to the contrary set forth herein, for any Delivery Month Seller shall not have a maximum limit on Net Energy Supply, provided that Buyer is capable of taking delivery of Net Energy Supply from Seller in excess of the Committed Capacity at any time without Buyer, or Buyer's Native Load Obligation, incurring physical or financial harm (other than any payment required hereunder) or impairment to its transmission or distribution system, each of which Buyer shall have the burden of demonstrating. Subject to the foregoing and to any limitation in Section 9.4 hereof, Buyer shall accept and pay for all Charges for all Net Energy Supply delivered hereunder. If any amounts of Net Energy Supply are proffered or supplied hereunder in excess of the Committed Capacity and Buyer refuses to accept such excess in accordance with this Section 9.2(c) or Section 9.4 or Section 12 hereof, the greater of 15.0 MW or the then-current Committed Capacity shall nonetheless be included in the calculation of Net Energy Supply delivered by Seller during any particular month for purposes of making the calculations specified in Section 9.2(a) and (b) hereof. Consistent with Section 7(a), in no instance shall Committed Capacity exceeding 20 MW be included in such calculation.

(d) For the duration of the Steam Agreement, Buyer shall receive a credit to the Fuel Charge component ("Credit") on each invoice in an amount equal to [REDACTED] of the gross revenues Seller has derived from the sale of Unfired Steam under the Steam Agreement for the preceding Month. Notwithstanding the foregoing, this Credit shall be reduced to zero percent (0%) of gross revenues derived from the sale of Unfired Steam under the Steam Agreement for the preceding month in situations arising under Section 9.4.

9.3 Invoices and Payments

(a) Buyer shall remit monies, in U.S. dollars, to Seller in an amount equal to the invoice amount, within thirty (30) Business Days upon receipt of each monthly invoice.

(b) On or before the tenth (10th) Business Day of each month following the month in which the Commercial Operation Date occurs, Seller shall prepare an invoice showing the charges (in U.S. dollars) payable by Buyer to Seller pursuant to the Agreement.

(c) Monthly Invoices shall present information and calculations in reasonable detail for the Delivery Month including 1) delivered Net Energy Supply (MW-hours), 2) purchase prices for Capacity and Energy 4) minimum quantities under the Service Guarantee (Section 9.2), and such other required information agreed upon by the Parties.

(d) Buyer shall be responsible for the payment (either directly or by reimbursing Seller therefore) for all sales, use, excise, franchise and similar taxes and levies which might be imposed by any Governmental Body on the purchase and sale of Energy Supply and/or any other Generation Services, Electric Energy, or Capacity and/or sold hereunder; provided, that (i) neither Party shall be responsible for any taxes or levies imposed on the other Party's income or property and (ii) Buyer shall provide Seller with a resale certificate and such other documents and information which Seller may reasonably request in connection with any taxes or levies which may be imposed in connection with the transactions herein contemplated. Each Party shall indemnify, release, defend and hold harmless the other Party from and against any and all liability for taxes imposed or assessed by any taxing authority that are the responsibility of such Party pursuant to this Section 9.3(c).

(e) Payments to be made for Generation Services provided under the Agreement shall cease as of the Termination Date, but shall be extended, if necessary, beyond the Termination Date in order to include final payment and settlement of all outstanding amounts due to Seller through and including the Termination Date.

(f) Any amount payable hereunder by one Party to the other Party which is not paid when due shall bear interest at the Interest Rate from the date such payment was due until the date payment is actually made.

9.4 Limits to Payments Made by Buyer to Seller

If during any hour of any Delivery Month Buyer can demonstrate that Buyer's Electric Energy supply is greater than Buyer's Native Load Obligation for such hour, the Non-Fuel Charge paid by Buyer to Seller for the quantity (MWh) of Net Energy Supply delivered during such hour that is 1) greater than Seller's Committed Capacity but 2) cannot be used by Buyer to serve its Native Load Obligation, shall be based on the Buyer's applicable REN-1 tariff prices on file with the FPSC. Buyer shall bear the burden of demonstrating that such condition exists.

9.5 Audits and Examinations

(a) "Audit" shall mean a comprehensive review by Buyer of Seller's costs and expenses for O&M, including actual and projected expenses, which are included for calculation of the Non-Fuel Charge under Section 9.1.

(b) Buyer shall have the right to conduct an Audit in five (5)-year increments that coincide with Seller's revision of the Non-Fuel Charge. Buyer may initiate such Audit, upon five (5) days' notice to Seller, and thereafter shall have the right through its authorized representative to conduct the Audit, during normal business hours, of any records, accounts, invoices, service agreements, purchase orders or requisitions which contain information bearing upon the calculation of the revised Non-Fuel Charge. Seller shall provide audit support, including appropriate access to and use of Seller's facilities (e.g., conference rooms, telephones, copying machines).

(c) Buyer and Seller shall each bear their own respective expenses in connection with the conduct of the Audit. The reasonable cost of special data extraction, if any, required by Buyer of Seller in order to conduct the Audit will be paid for by the Buyer.

(d) Adjustments, credits or payments shall be made and any corrective action shall commence within twenty (20) days from Buyer's receipt of the final Audit report to adjust the revised Non-Fuel Charge or otherwise compensate Buyer for any erroneous overpayments made as a result of errors in calculation of the Non-Fuel Charge. One and one-half percent (1.5%) or the highest interest rate allowed by law for commercial transactions, whichever is lower, shall be assessed and shall be computed by compounding monthly from the time of the final audit report until corrective action and reimbursement, if any, are completed.

10. REPORTING OF FORCED OUTAGES OR FORCE MAJEURE

Seller shall provide as soon as reasonably practicable via electronic media notice to Buyer upon the occurrence of any Forced Outage or Force Majeure Event materially affecting the QF, in full or in part, indicating the amount of capability affected and the anticipated period of such Forced Outage or Force Majeure Event. Seller shall provide updated information regarding such Forced Outage or Force Majeure Event from time to time as reasonably requested or periodically (but not less than once per month) until such Forced Outage or Force Majeure Event ceases to exist.

11. OPERATIONS, SCHEDULING AND NOTICE OF PLANNED OUTAGES

11.1 Notice Generally. Seller will provide notice to Buyer of Planned and Forced Outages via electronic media (e-mail).

(a) At a least ninety (90) days prior to the Commercial Operation Date; and no later than the Friday of the first full week of December of each calendar year thereafter over the term of this Agreement, Seller shall submit to Buyer a schedule of Planned Outages for the QF over the succeeding calendar year. The schedule will specify the days of Planned Outages. Seller shall use reasonable efforts to coordinate the scheduling of Planned Outages of the QF with Buyer and, where possible, accommodate the expressed preferences for Planned Outages of Buyer, provided that, notwithstanding any term set forth herein, in no event shall any Planned Outages interfere with or in any manner adversely affect the continued and planned operation of the QF for the benefit of Seller's industrial QF located adjacent thereto and Seller shall have complete discretion as to the performance of all operations and maintenance regarding the QF which might

affect such operations. Seller shall provide written notice to Buyer of changes to the schedule for Planned Outages within thirty (30) days prior to the Outage.

(b) Within seven (7) days of receiving the proposed schedule of Planned Outages, Buyer may propose modifications thereto. Seller may accept or reject Buyer's proposed modifications in its sole and absolute discretion, consistent with the continued and planned operation of the QF for the benefit of Seller's industrial QF located adjacent thereto or the operations of such QF itself and Seller's business performance and results.

(c) During each Planned Outage, Seller shall keep Buyer apprised of the status of the QF, and changes to the schedule of the Planned Outage.

(d) Seller shall electronically provide notice to Buyer immediately (within 15 minutes of the event) of Forced Outages and, as soon as practicable and when reliable information becomes available, electronically provide Buyer with a schedule (date and hour of day) as to when the QF is expected to return to service. Seller shall provide Buyer with updates of the status and changes in the expected schedule of the QF during Forced Outages, when such information becomes available in a reliable form.

11.2 Access and Information

(a) Seller shall provide Buyer and its authorized agents, employees and inspectors during normal business hours and at such location as Seller shall designate with reasonable access to records relating to the Capacity of the electrical generating units of the QF and data relating to the Net Energy Supply being generated by such electrical generating units for sale hereunder. Buyer acknowledges that such access does not provide Buyer with the right to direct or modify the operation of the QF in any way or grant it any right not otherwise provided herein. The exercise by Buyer of its rights under this Section 11.2 shall be at its own risk and expense.

(b) Any inspections or testing by Buyer shall not relieve Seller of its obligation to maintain the electrical generating units in the QF in accordance with its obligations hereunder. In no event shall any Buyer statement, representation, or lack thereof, either express or implied, relieve Seller of its exclusive responsibility for such electrical generating units. Any Buyer inspection of property or equipment owned or controlled by Seller or any Buyer review of or consent to Seller plans with respect thereto, shall not be construed as endorsing the design, fitness or operation of the QF equipment nor as warranty or guarantee of any nature.

11.3 Operation of QF Pursuit to Safety and Reliability

Seller agrees that all Net Energy Supply delivered by Seller hereunder shall be delivered in accordance with the QF Connection Requirements attached hereto as Appendix D and will meet any and all applicable requirements for voltage level, harmonics, power factors, vars, ancillary services and other electrical specifications reasonably required by Buyer or as specified by National Reliability Standards enforced by the FERC. Seller shall provide adequate system protection and control devices within the QF to ensure safe and protected operation of all

energized equipment during normal testing and repair and the QF's protective equipment shall meet IEEE standards. Seller shall have qualified independent, third party personnel test, calibrate and certify in writing the proper function of all protective equipment in the QF at least once every twelve (12) months and also shall perform a unit functional trip test after each overhaul of the QF's turbine, generator and boilers and shall provide results thereof to Buyer in writing prior to retuning the equipment to service, provided that, for the avoidance of doubt, the foregoing shall not be construed to give Buyer any ability to direct, modify, control or be involved with the operation of the QF in any manner whatsoever.

12. DECLINED ACCEPTANCE AND RECEIPT OF ELECTRIC ENERGY

From time to time, Buyer, upon prior notice to Seller may decline to accept Net Energy Supply delivered hereunder during any given hour, due to an emergency condition, or due to the conditions set forth below. Buyer shall not be obligated to purchase and may require curtailed or reduced deliveries of Net Energy Supply, to the extent necessary to maintain the reliability and integrity of any part of Buyer's system, or if Buyer determines that a failure to do so is likely to endanger life or property, or is likely to result in significant disruption of electric service to Buyer's customers. Buyer shall use commercially reasonable efforts to give Seller as much prior notice as reasonably practicable of its intent to refuse, curtail or reduce its acceptance of Net Energy Supply pursuant to this Section 12 and will use commercially reasonable efforts to minimize the frequency and duration of such occurrences. Seller shall not be responsible for any damages which may be incurred by Buyer as a result of Buyer's failure to provide adequate notice of its desire to curtail any Net Energy Supply or other Generation Services hereunder.

13. RESERVED

14. FORCE MAJEURE/MITIGATION

"Force Majeure" shall mean an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the affected Party or its contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this Agreement. Such events or circumstances may include, but are not limited to: actions or inactions of civil or military authority (including courts and governmental or administrative agencies), acts of God, war, riot or insurrection, terrorism, blockades, embargoes, sabotage (including, but not limited to, arson and vandalism), epidemics, explosions and fires not originating in the QF or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes (not caused by the failure of the affected Party to comply with the terms of a collective bargaining agreement). Equipment breakdown or the inability of Seller to use equipment due to its design, construction, operation, maintenance, the inability of Seller to meet regulatory standards, or failure by Seller to obtain on a timely basis and maintain a necessary permit or other regulatory approval, shall not be considered a Force Majeure event. Except as otherwise provided in this Agreement, each Party shall be excused from performance only to the extent non-performance was caused by a Force Majeure. Notwithstanding any provision to the contrary set forth herein, in no event shall either Party be excused from any obligation to pay any monies due and owing hereunder as a result of any Force Majeure hereunder.

The Party claiming that a Force Majeure Event has occurred shall use its commercially reasonable efforts to cure the cause(s) preventing its performance of this Agreement; provided, however, that the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected Party and such Party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such Party deems to be unreasonable in its sole and absolute discretion.

15. INSURANCE

(a) At all times after the Commercial Operation Date, at Seller's sole cost and expense, Seller shall obtain and maintain in accordance with the provisions of this Section 15, the following insurance coverage with reputable companies authorized to do business in the State of Florida and reasonably acceptable to Buyer. Insurance coverage shall be maintained in such amounts which are not less than the amounts set forth below:

i. Comprehensive or general liability insurance, including bodily injury and property damage, in an amount not less than \$2,000,000.00 for each occurrence. The required insurance policy shall include coverage for (1) premises and operations; (2) contractual liability; (3) products and completed operations; and (4) broad form property damage (including completed operations). The required minimum limits may be satisfied by a combination of primary policy and an excess or umbrella policy, but in any case shall list the Buyer as an additional insured with respect to liability arising out of or in connection with this Agreement.

ii. Worker's Compensation insurance (including coverage for Occupational Disease) as required by all applicable laws and regulations;

iii. Employer's liability insurance of no less than \$1,000,000.00 for each occurrence and in the aggregate.

(b) Seller shall be responsible for deductible amounts or self-insured retention amounts associated with losses insured by Seller unless the loss is the result of an act of omission of Buyer.

(c) Notwithstanding the foregoing, Buyer and Seller may agree to modify the insurance coverage terms and conditions set forth in this Section 15 at any time prior to the Commercial Operation Date. Any such modification of insurance terms shall be expressly set forth in writing and executed by Buyer and Seller. Thereupon, the modified insurance terms and conditions shall be deemed to supersede and replace any conflicting terms and conditions in this Section 15.

16. CERTIFICATES OF INSURANCE

(a) Seller shall cause its insurers or agents to provide Buyer with certificates of insurance evidencing the policies and endorsements required by Section 15.

(b) If Seller is unable to obtain any of the insurance coverages required by Section 15, it shall promptly notify Buyer.

(c) Failure by Seller to obtain any insurance coverage or certificate of insurance required by Sections 15 and 16 shall not in any way relieve or limit the obligations and liabilities of Seller under any provision of this Agreement.

(d) If Seller fails to procure or maintain any insurance required pursuant to Section 15, then Buyer shall have the right, but not the obligation, after prior notice to Seller of not less than 30 days, to procure such insurance and in any such event Buyer shall be entitled to recover the premiums paid for such insurance as if the same were a debt due and such premiums may be off-set by Buyer against any amounts owed to Seller pursuant to the terms of this Agreement.

17. DEFAULT

(a) Either Party shall be considered in default under this Agreement (“Event of Default”) if:

i. Such Party fails to perform any material obligation hereunder, except to the extent prevented by a Force Majeure Event, and such failure continues for thirty (30) days after written notice by the other Party demanding cure of such failure, provided that where cure reasonably requires more than 30 days, so long as such Party has commenced within thirty days of the notice and diligently pursues a cure, such Party shall have such additional time as is reasonably required to effectuate the necessary cure;

ii. Any representation or warranty made by a Party herein shall have been false when made and such misrepresentation has had or could reasonably be expected to have a material adverse effect on the other Party;

iii. Such Party voluntarily declares bankruptcy or suffers the filing of an involuntary bankruptcy petition against it and fails to obtain the dismissal of such petition within sixty (60) days; or

iv. Such Party has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed discharged, stayed or restrained, in each case within thirty (30) days thereafter, and such party fails to assume all the obligations of such Party under this Agreement.

(b) Upon the occurrence and during the continuation of any Event of Default involving a Party, the other Party shall have the right to deliver a written notice of intent to terminate (“Notice of Intent to Terminate”) this Agreement to such Party, provided that with respect to Seller, as long as Seller is continuing to deliver Net Energy Supply from the QF to Buyer, any Event of Default as defined in Section 17(a) above shall not constitute grounds for any right of Buyer to terminate this Agreement. Any Notice of Intent to Terminate shall specify

the Event of Default giving rise to such Notice of Intent to Terminate. Following the giving of a Notice of Intent to Terminate, the Parties shall consult for a period of up to thirty (30) Business Days as to what steps shall be taken. At the expiration of the thirty (30) Business Day period and unless the Parties shall have otherwise mutually agreed on a remedy or the affected Party has cured such Event of Default, Buyer or Seller, as applicable, may terminate this Agreement by giving notice thereof to the affected Party, whereupon this Agreement shall immediately terminate.

18. LIABILITY AND INDEMNIFICATION

18.1 LIMITATION OF LIABILITY

THE PARTIES AGREE THAT ANY EXPRESS REMEDIES AND MEASURE OF DAMAGES, PROVIDED FOR HEREIN ARE REASONABLE AND SATISFY THE ESSENTIAL PURPOSE HEREOF FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, AND THAT SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES THEREFORE SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR ANY SUCH BREACH AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, EITHER PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, PROVIDED THAT NEITHER PARTY NOR THEIR CORPORATE PARENT SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, EVEN IF SUCH DAMAGES ARE ALLOWED OR PROVIDED BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE.

EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

18.2 INDEMNIFICATION

Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party, and each of the other Party's Affiliates, directors, officers, employees, agents and permitted assigns (collectively, the "Indemnified Party"), from and against any and all claims, losses, liabilities, damages, judgments, awards, fines, penalties, costs and expenses (including reasonable attorneys' fees and disbursements) directly incurred in connection with or directly arising from or out of any unrelated third party claim for damage to property or injury (including death and disease) to any person to the extent caused by: (i) any negligent act or omission or willful misconduct, breach of a representation or warranty or failure to perform any covenant or agreement in this Agreement by said Party or (ii) any violation of Applicable Law by said Party

or (iii) any negligent act or omission or willful misconduct, breach of a representation or warranty by said Party arising prior to the Commercial Operation Date with regard to the planning and construction of the Facility.

The Indemnified Party shall promptly notify the Indemnifying Party of any claim or proceeding in respect of which it seeks to be indemnified. Such notice shall be given in writing as soon as reasonably practicable after the Indemnified Party becomes aware of such claim or proceeding. Failure to give such notice shall not excuse an indemnification obligation except to the extent failure to provide notice adversely affects or prejudices the indemnifying Party's interests. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party; provided, however, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party reasonably concludes that in the context of such indemnification there may be legal defenses available to it that are different from or additional to, or inconsistent with, those available to the Indemnifying Party and that a conflict of interest exists such that designated counsel can no longer effectively protect the rights of the Indemnified Party, the Indemnified Party shall have the right to select and be represented by separate counsel; provided however, the foregoing shall not preclude the Indemnified Party from otherwise participating in any such proceeding at its own expense. If the Indemnifying Party fails to assume the defense of a claim, the indemnification of which is required under this Agreement, the Indemnified Party may, at the expense of the Indemnifying Party, contest, settle, or pay such claim; provided, however, that settlement or full payment of any such claim may be made only with the Indemnifying Party's consent or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

19. CONTINUING QUALIFICATION AND REGULATORY APPROVAL

Notwithstanding any other provisions of this Agreement, Buyer shall have the right to terminate this Agreement, by written notice to Seller giving the reasons therefore, without cause, liability or obligation, if any of the following conditions subsequent has occurred, in Buyer's good faith judgment:

(a) Upon 12-months' notice should the QF shall fail to obtain its status as a Qualifying Facility. By the end of the first quarter of each calendar year, Buyer may request and, if so, Seller shall furnish to Buyer a notarized certificate by an officer of Seller certifying that the QF has continuously maintained its status as a Qualifying Facility on a calendar year basis since the Commercial Operation Date under this Agreement;

(b) Any approval from any Governmental Body having jurisdiction thereof necessary for Buyer to enter into this Agreement or to allow full recovery by Buyer from its customers of all payments required to be made by this Agreement shall no longer be in full force and effect, and some portion or all of such payments shall have become disqualified for such recovery in contravention of FPSC Order No. 25668, issued February 23, 1992. In connection with the foregoing, Buyer and Seller agree, at Buyer's expense, to support and defend this Agreement and their respective rights to cost recovery and payment, against any challenge thereto by any Person.

20. DISCLAIMER

Except as otherwise expressly contemplated in this Agreement, Buyer does not, nor should it be construed, to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with Seller or any assignee of this Agreement.

21. NOTIFICATION

Any notice required or permitted to be given hereunder shall be in writing and shall be: (i) personally delivered; (ii) transmitted by posted prepaid certified mail; (iii) transmitted by a recognized overnight courier service; or (iv) transmitted by electronic mail with a request for electronic receipt confirmation, to the receiving Party as follows, as elected by the Party giving such notice:

<u>For Seller</u> Eight Flags Energy, LLC 911 South 8th Street Fernandina Beach, Florida 32034 Attention: Vice-President kwebber@chpk.com	<u>For Buyer</u> Florida Public Utilities Company 1641 Worthington Road, Suite 220 West Palm Beach, FL 33409 Attention: Director of Electric Operations dshelley@chpk.com
--	---

All notices and other communications shall be deemed to have been duly given on: (i) the date of receipt if delivered personally; (ii) the date of receipt if transmitted by mail; (iii) the date of receipt if transmitted by courier; or (iv) the date of transmission with confirmation if transmitted by electronic mail, whichever shall first occur. Any Party may change its address or other contact information for purposes hereof by notice to the other Party.

22. RESOLUTION OF DISPUTES

22.1 NOTICE OF DISPUTE

If any dispute (including payment dispute), controversy or claim arising out of or relating to this Agreement or the breach, termination or validity thereof should arise between the Parties (a "Dispute"), the Party wishing to declare a Dispute shall deliver to the other Party a written notice identifying the disputed issue.

22.2 RESOLUTION BY PARTIES

Following delivery and receipt of a notice of Dispute, executives of both Parties shall meet at a mutually acceptable time and place within ten (10) Business Days after receipt of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. In such meetings and exchanges, a Party shall

have the right to designate as confidential any information that such Party offers. If the matter has not been resolved in the aforementioned manner within thirty (30) Days after the notice of Dispute has been issued by a Party, or if the Parties fail to meet within ten (10) Business Days as required above, either Party may initiate any legal action, suit or other proceeding available to it to resolve such Dispute.

23. VENUE

This Agreement shall be governed by and construed and enforced in accordance with the laws, rules, and regulations of the State of Florida without regard to the choice of law provisions thereof. THE PARTIES AGREE THAT ANY LEGAL ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL BE INSTITUTED IN A COURT OF COMPETENT JURISDICTION LOCATED IN NASSAU COUNTY, FLORIDA. THE PARTIES HEREBY WAIVE THE RIGHT TO A JURY TRIAL FOR ANY LEGAL ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

24. COMPLETE CONTRACT/SEVERABILITY

This Agreement together with any Appendices, Exhibits or Attachments thereto, represents the entire agreement of the Parties with respect to the subject matter contained herein. All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Agreement, are hereby abrogated. If any part of this Agreement, for any reason, be declared invalid, or unenforceable by a court or public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of this Agreement, which remainder shall remain in force and effect as if this Agreement had been executed without the invalid or unenforceable portion.

25. CONFIDENTIALITY

Neither Party shall disclose the terms of this Agreement concerning the price for Energy to any third Party, other than a Party's and its affiliates' employees, lenders, counsel, accountants or other representative who have agreed to keep such terms confidential, except as required to comply with any applicable law, order, regulation or exchange rule; provided, each Party shall notify the other Party of any proceeding of which it is aware which may result in disclosure at the earliest practicable time in order to enable the other Party to take any action it may want to take to limit or prevent such disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce this confidentiality obligation; provided, however, that any monetary damages awarded in connection therewith shall be limited to actual, direct damages.

26. RECORDS RETENTION/AUDIT

Each Party agrees to retain during the term hereof and thereafter for a period of five (5) years from the Termination Date hereof, all records relating to the performance of its obligations hereunder, and to cause any Affiliate to retain all such records for the same period. Either Party shall have the right throughout the term of this Agreement, and thereafter for a period of five (5)

years from the Termination Date hereof, on an annual basis and upon reasonable prior notice, to audit the other Party's metering and other records relating to this Agreement to the limited extent necessary to verify the basis for any claim by either Party regarding payments hereunder or as otherwise provided in Section 9.5. Each Party shall make such metering and other records available at its corporate office during normal business hours and the auditing Party shall reimburse the other Party for those reasonable out of pocket costs incurred by it in respect of such audit, as supported by appropriate documentation.

27. BENEFIT/NO WAIVER

This Agreement, as it may be amended from time to time, shall be binding and inure to the benefit of the Parties and their respective successors-in-interest and legal representatives. No Person not a signatory hereto shall be deemed an intended third party beneficiary of this Agreement.

No waiver of any of the terms of conditions of this Agreement shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

28. COUNTERPARTS

This Agreement may be executed in two (2) or more counterparts, all of which will be considered one and the same Agreement and each of which will be deemed an original.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement effective as of the day and year first above written.

WITNESSES:

Cheryl Martin
Matthew [Signature]

EIGHT FLAGS ENERGY, LLC

BY: [Signature]

Title: Vice President

WITNESSES

Cheryl Martin
Matthew [Signature]

FLORIDA PUBLIC UTILITIES COMPANY

BY: [Signature]

Title: PRESIDENT

Appendix A

Facility Description

Generation Facility: Eight Flags Energy, LLC

County of Operation: Nassau County, Florida

Address: 10 Gum Street, Fernandina Beach, Florida 32034

Facility Description: This facility will be a Combined Heat and Power (CHP) system that will produce energy through the use of a natural gas fired turbine generator and heat recovery steam generator to produce electricity, steam and hot water.

Technology: Natural Gas Fired Turbine Generator (Turbine) used in conjunction with a Heat Recovery Steam Generator (HRSG).

Physical Attributes: All facilities will be located at the Rayonier Advanced Materials, Inc. (Rayonier) mill which manufactures high quality wood cellulose for use in a multitude of products.

Fuel: Natural Gas

Electrical Capacity: The system will have the ability to produce up to a maximum of 20 MW's of electrical capacity from the natural gas fired turbine generator. During normal operations, this base load electrical capacity will provide electrical service to Florida Public Utilities Company transmission system and will be connected to the 69 KV transmission system.

Steam Pressure and Production: The HRSG that will be installed will be rated to produce 150 PSI steam for use by Rayonier in the mill process. The HRSG will be constructed with the ability to produce steam from the waste heat from the turbine generator. The unfired steam produced from the waste heat will consist of approximately 75,000 lbs/hour.

Hot Water Economizer: The hot water economizer included in the HRSG will allow water provided by Rayonier to be heated and returned for use in the mill processes.

Operating Constraints: The facility will typically supply base load capacity of up to 20 MW's to FPU along with unfired steam up to a approximately 75,000 lbs/hour to Rayonier. Actual operating conditions are based on operating temperatures and will vary throughout the year. In the event of emergency shut down situations or maintenance operations, as much advance notice as reasonably practical will be provided to FPU and Rayonier.

General Operating Characteristics: Generally the system will be operated in order to supply base load capacity and energy to FPU and steam to Rayonier.

Appendix B

List of Applicable Permits Received

- FERC Form 556
 - Submission ID: QF14-768-000
 - Filed by : Eight Flags Energy, LLC
 - Signed by: Kevin Webber
 - Filing Description: Public Form 556 of Eight Flags Energy, LLC under Docket
 - Submission Date/Time: 9/12/2014 @ 3:58:40 PM
 - Filed Date: 9/12/2014 @ 3:58:40 PM

- Air Permit Application to Florida Department of Environmental Protection – Division of Air Resource Management
 - Submission ID: Pending
 - Filed by : Eight Flags Energy, LLC
 - Signed by: Kevin Webber
 - Filing Description: Application for Air Permit by Eight Flags Energy, LLC
 - Submission Date/Time: 9/16/2014 @ 12:01 PM
 - Filed Date: Pending

Appendix C

Commercial Operation Criteria

- Committed capacity to include a maximum amount of 20 MW's has been designated by Seller that will be available to Buyer.
- Capacity tests will be performed during such a time that the Sellers operation is in a near normal condition in order to adequately assess the net capacity available to Buyer.
- Seller will notify Buyer of proposed test date and time and allow Buyer to participate as needed in order to verify the test results.
- Capacity tests will be performed by Seller which will be based on a minimum test period of four (4) consecutive hours.
- Capacity test will cause the Facility to operate at its highest sustained net MW rating without exceeding the design operation conditions, temperature, pressures and other parameters defined by the applicable manufacturer(s) for steady state operations (and without exceeding applicable environmental and safety requirements and the operational limitations of the industrial facility of Seller located adjacent thereto).
- Capacity of the Facility shall be the minimum average hourly net output in MW's measured over such test period.
- Seller and Buyer shall independently monitor voltage levels, system performance and meter the net capacity being produced during the capacity test.

Appendix D

Florida Public Utilities Company Facility Connection Requirements

1. Introduction

1.1 This Facility Connection Requirements document covers the requirements for connection or interconnection of new facilities with, or major revisions to existing facilities connected to, facilities owned by Florida Public Utilities Company. The document addresses generating, transmission, and load serving (end-user) facilities.

1.2 Florida Public Utilities Company (FPU) presently owns an eight mile double circuit 138kV transmission line and a Step-down Substation which are the only Bulk Electric System (BES) facilities owned by FPU. The double circuit 138kV transmission line is interconnected with JEA at the JEA Nassau Switching Substation.

1.3 JEA is the Balancing Authority and Transmission Operator for the FPU facilities interconnected with JEA at the JEA Nassau Switching Substation. The operation of these facilities is governed by the NETWORK OPERATING AGREEMENT BETWEEN JEA AND FLORIDA PUBLIC UTILITIES COMPANY (aka NOA).

1.4 Any request for interconnection of new generating or transmission facilities would first be evaluated by FPU. The interconnection study would address the impact of the facilities as initially connected and also throughout the planning horizon. The results of the study will be shared with the requestor.

1.5 New facilities interconnected by third parties must adhere to the requirements contained in the facility connection requirements documents of FPU.

1.6 Unless otherwise agreed upon, the facility is required to bear all costs associated with the change-out, upgrade or addition of protective devices, transformers, lines, services, meters, switches and associated equipment and devices beyond that which would be required to provide normal service to the qualifying facility if the qualifying facility were a non-generating customer. Should this be necessary and prior to any work being performed, FPU will provide a written estimate to facility.

2. Common Requirements

2.1 This section covers both general and technical requirements which are applicable to both generation and transmission facilities.

2.2 Facilities interconnected with FPU must be designed, constructed, operated, and maintained so that they will not adversely affect the reliability of the electrical system. The design, operation and maintenance of the facilities must at all times comply with NESC requirements, applicable ANSI and IEEE standards.

2.3 Common Technical Requirements

- 2.3.1 Voltage Level – The FPU interconnection facilities for this agreement are 69kV and shall be maintained within a range of plus or minus 5%.
- 2.3.2 Frequency – The frequency shall be maintained at 60 hertz, plus or minus an instantaneous variation of less than 1%, for load levels from no-load to fully rated output.
- 2.3.3 MW and MVAR capacity – The MW and MVAR capability of any proposed new generator, the MVA rating of any proposed transmission lines, or the MVA requirements of any proposed load serving facilities must be clearly specified in the facility connection request.
- 2.3.4 Breaker duty, breaker operating time, and surge protection must coordinate with existing equipment as well as projected fault current levels during the current planning horizon.
- 2.3.5 System protection equipment shall be equivalent to existing primary and back-up schemes of FPU and shall be designed to coordinate properly with the existing protection systems.
- 2.3.6 Metering equipment shall be supplied by FPU and will be of the configuration and accuracy as required for the specific type of facility and as detailed further below under the technical requirements for the individual types of facility connections. Telecommunications for data and/or voice communications shall be provided also as specified below.
- 2.3.7 Grounding shall be designed to meet the requirements of ANSI/IEEE 80, IEEE Guide for Safety in AC Substation Grounding, and ANSI/IEEE C2, National Electrical Safety Code. All facilities shall be adequately bonded and grounded to control step and touch potential in compliance with the NESC. New facilities may increase the fault current levels at existing substations. The interconnection studies will evaluate this effect and determine if existing facilities require upgrading.
- 2.3.8 Insulation design levels must be selected so as not to degrade the BIL or BSL of existing facilities. The facility connection request shall provide adequate details on the BSL, conductor spacing, transmission line insulation, surge arrestors, and lightning protection (shielding) needed for evaluation.
- 2.3.9 Voltage, Reactive Power, and Power Factor controls or devices shall be provided as detailed below under the technical requirements for the individual types of facility connections.
- 2.3.10 Power Quality must be maintained at a level of 0.85 lagging through 0.85 leading such that it will not impact the FPU electrical system or the facilities of the other interconnected entities. Capacitor installation may be required if this level cannot be maintained.
- 2.3.11 Harmonics distortion shall be avoided and not have any impact of the FPU electrical system facilities.
- 2.3.11 Equipment ratings shall be specified such that the ratings of existing facilities are not adversely affected.
- 2.3.13 Synchronizing and closing coordination controls shall be designed as specified further below under the technical requirements for the individual types of facility connections.
- 2.3.14 Facilities shall be maintained in accordance with good utility practices and in a manner which prevents any adverse impact on the FPU electrical system.
- 2.3.15 Operational issues pertaining to abnormal voltage and frequency conditions are unique to each type of facility and the requirements are listed below under the technical requirements for the individual types of facility connections.
- 2.3.16 Facilities interconnected with the FPU electrical system shall be available for inspection with reasonable notice. If disconnecting devices or equipment owned by others is located on the premises of the interconnected facility, that equipment must be accessible at all times or on short notice in the event of an emergency operational condition.
- 2.3.17 Communications procedures and protocols during both normal and emergency operating conditions can vary according to the type of facility. Requirements are listed below under the technical requirements for the individual types of facility connections.

3. Technical Requirements for Generator Interconnections

- 3.1 The requirements listed in this section are particular to generator interconnections and are in addition to the requirements in Section 2, Common Requirements, above. The facility interconnection study and the requirements of the other interconnected entities may dictate additional requirements which must be complied with.
- 3.2 The following information shall be included with any generator interconnection request:
 - 3.2.1 Generator Nameplate MVA Rating
 - 3.2.2 Generator Maximum MW capability and Maximum Leading and Lagging MVAR at Maximum MW Output
 - 3.2.3 Generator Step-Up Transformer MVA Rating, Voltage Ratings and Tap Settings.
- 3.3 Protection and control equipment for the prevention of damage to the generator and associated auxiliaries is the responsibility of the generator owner.
- 3.4 Generator voltage rating, reactive capability, voltage regulator, and transformer tap settings shall be designed and coordinated such that the generating unit is capable of helping to support the voltage and reactive requirements in the area.
- 3.6 The generator shall have automatic synchronizing equipment to synchronize the generator to the FPU electrical system. Dead bus or other closing permissives shall not be permitted unless agreed to or requested in the interconnection agreement.
- 3.7 Communications channels and protocols between the generator and FPU shall be established for use during normal and emergency conditions.

4. Technical Requirements for Transmission Interconnections

- 4.1 The requirements listed in this section are particular to transmission interconnections and are in addition to the requirements of Section 2, Common Requirements, above. The facility interconnection study and the requirements of the other interconnected entities may dictate additional requirements which must be complied with.
- 4.2 The following information shall be included with any transmission interconnection request:
 - 4.2.1 Transmission line MVA rating based upon limiting element.
 - 4.2.2 Specifications for all components, i.e. conductor, insulators, structures, terminal components, etc.
- 4.3 Line primary, back-up, and breaker failure protection equipment shall be high speed equivalent to existing equipment.
- 4.4 Synchronizing, synch-check, hot bus-dead line, or other permissive schemes shall be included as specified in the interconnection agreement.
- 4.5 Communications channels and protocols between the generator and FPU shall be established for use during normal and emergency conditions.

4.6 A manual disconnect switch of the visible load break type will be provided as a separation point between the facility and the FPU electrical system. FPU will designate the location of this switch, place a lock on the switch, have access to this switch at all times and be able to operate this switch (with notification to facility) as required.

5. Technical Information from Qualifying Facility

5.1 The following information will be provided to FPU.

- 5.1.1 Drawing showing the physical layout of the facility.
- 5.1.2 Equipment specifications and characteristics including technical parameters, ratings, basic impulse levels, main electrical one line diagrams, schematics, frequency protection, voltage/current protection.
- 5.1.3 Functional and logic diagrams and other relevant data such as control, meter, conductor, etc. information in order to better understand and coordinate with other systems.
- 5.1.4 Power requirements and outputs in MW and MVAR.
- 5.1.5 Harmonic distortion and/or radio or telephone interference that may be expected.
- 5.1.6 Method and specifications of synchronizing the generator with the FPU electrical system.
- 5.1.7 Necessary operating or instructions manuals that may be needed.

5.2 Operating procedure to ensure adequate personnel safety. Procedure shall address maintenance, access, operations, clearances, etc. necessary for the safe operation of both facility and FPU personnel.

ATTACHMENT B
(redacted)

SUMMARY OF PROJECTED SAVINGS

PROJECTED NET BENEFITS FROM CONTRACT BETWEEN EIGHT FLAGS AND FPU

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Wholesale Costs of Power Including G&T (\$/MWh)	[REDACTED]																				
Projected JEA Contract Price*	[REDACTED]																				
Eight Flags Generator																					
Output Gain (MW)	19.80																				
Capacity Factor																					
Output per Year, MWh	166,510																				
Eight Flags Non-Fuel Cost Charge (\$/MWh)	[REDACTED]																				
Adjusted Fuel Prices																					
Natural Gas All In Price	5.79	5.94	6.10	6.26	6.45	6.63	6.79	6.91	6.92	7.03	7.17	7.29	7.40	7.52	7.64	7.77	7.89	8.02	8.15	8.29	8.42
Avoided Cost-Based Savings	[REDACTED]																				
19.8 MW	[REDACTED]																				
Eight Flags-based Charges	[REDACTED]																				
Capacity/Non-Fuel Cost	[REDACTED]																				
Fuel Costs w/Transport	[REDACTED]																				
Steam Credit	[REDACTED]																				
Total	[REDACTED]																				
Net Benefits																					
Annual	3,563,499	3,484,885	3,292,123	2,533,110	2,277,748	3,221,416	3,085,468	2,894,149	2,957,564	2,765,326	2,666,580	2,604,602	2,549,774	2,502,314	2,462,462	2,430,472	2,406,619	2,391,198	2,384,524	2,386,935	2,401,147
Total	57,261,914																				
Discounted Net Benefits																					
Annual	3,102,400	2,830,872	2,495,275	1,791,459	1,503,036	1,983,449	1,772,580	1,551,373	1,479,245	1,290,514	1,161,132	1,058,228	966,607	885,117	812,717	748,464	691,509	641,087	596,504	557,138	522,940
Total	28,441,647																				
Social Discount Rate	[REDACTED]																				

ATTACHMENT C

INTERCONNECTION LETTER



September 26, 2014

Kevin Webber, Vice President
Eight Flags Energy, LLC
911 South 8th Street
Fernandina Beach, Florida 32034

Dear Mr. Webber:

In accordance with the “Negotiated Contract Between Florida Public Utilities Company (FPU) and Eight Flags Energy, LLC (Eight Flags) for the Purchase of Electric Energy from a Qualifying Facility – Appendix D” an Interconnect Study has been conducted by FPU to address the impact of the Eight Flags facility as initially connected and throughout the planning horizon. FPU has evaluated the currently proposed operating criteria of the Eight Flags generating facility which is in compliance with all standards and determined that additional study will not be required.

The interconnection of the FPU and Eight Flags facilities will be designated as the 13.8 KV low side substation bus located at the proposed Eight Flags substation which will be owned and operated by FPU. Should modifications occur to the Eight Flags operating criteria that increases the available generating capacity of the facility, FPU reserves the right to conduct an interconnect study at that time to identify any possible impact to the overall system and to ensure system reliability to both parties.

Should you have any questions regarding this please feel free to contact by email at mcutshaw@fpuc.com or phone at (904)277-1957.

Sincerely,

A handwritten signature in black ink that reads 'P. Mark Cutshaw'.

P. Mark Cutshaw, Director
System Planning and Engineering
Florida Public Utilities Company

