124

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Expedited Approval of Settlement Agreement with Lake Cogen, Ltd. by Florida Power Corporation.	Docket No. 961477-EI Submitted for filing: December 12, 1996

PETITION

Florida Power Corporation ("FPC"), pursuant to Rule 25-22.036(4), Florida Administrative Code, respectfully petitions the Florida Public Service Commission (the "Commission") to approve on an expedited basis the attached Settlement Agreement between FPC and Lake Cogen, Ltd. ("Lake"), including confirmation that the underlying Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility, dated March 13, 1991, between FPC and Lake (the "Negotiated Contract")[1] as modified by the Settlement Agreement, continues to qualify for cost recovery.[2] In support of this Petition, FPC states as follows:

Introduction

1. All pleadings, motions, notices orders or other documents required to be served in this docket should be addressed to the undersigned at the address shown therewith.

[1] The Negotiated Contract was originally approved by the Commission for cost recovery purposes in Order No. 24634 issued July 1, 1991, in Docket No. 910401-EQ. Modifications to the Negotiated Contract were approved by the Commission in Order No. PSC-95-0540-FOF-EQ issued May 2, 1995 in Docket No. 940797-EQ.

[2] Order No. PSC-95-0540-FOF-EQ issued on May 2, 1995 in Docket No. 940797-EQ requires FPC to submit to the Commission for review and cost recovery approval, material changes to cogeneration agreements, including changes involving curtailment.

DOCUMENT NUMBER-DATE
13259 DEC 12 96
FPSC-RECORDS/REPORTING

2. FPC is a public utility subject to the jurisdiction of the Commission pursuant to Chapter 366, Florida Statutes. FPC's general offices are located at 3201-34th Street, South, St. Petersburg, FL 33711.

Request for Expedited Treatment

3. Expedited treatment of this Petition is requested due to the need for the parties to know with certainty how they will perform under the Negotiated Contract and thereby terminate protracted litigation now pending in state circuit court, as well as for the real and significant benefits that FPC's ratepayers will realize as a result of the Settlement Agreement. The Settlement Agreement and the associated benefits to FPC and its ratepayers are conditioned upon approval in its entirety by the Commission. Therefore, FPC respectfully requests that the Commission address this Petition through its proposed agency action procedures on an expedited basis and issue an order approving the Settlement Agreement as soon as practicable.

Background

4. Lake's obligation under the Negotiated Contract to provide a Committed Capacity of 110 MW is served from its cogeneration facility located near Umatilla, in Lake County, Florida, which began commercial operation on July 1, 1993. In August of 1994, a disputes arose between FPC and Lake related to parties' differing interpretation of the methodology to be employed in determining the energy price to be paid under Section 9.1.2. of the Negotiated Contract.

5. The jurisdictional aspects of the energy pricing dispute were addressed by the Commission in Docket No. 940771-EQ, wherein the Commission

determined that it lacked subject matter jurisdiction to adjudicate the dispute and closed the docket. Order No. PSC-95-0210-FOF-EQ, issued February 15, 1995 in Docket No. 940771-EQ. FPC and Lake have been involved in litigation in state circuit court regarding the energy pricing issue along with other issues involving the Negotiated Contract.

6. After considering the contested issues, the ongoing expense of resolving such controversies through litigation, and the benefits that will be realized by the parties and FPC's ratepayers from certain agreed-upon terms resolving the controversies, FPC and Lake executed the Settlement Agreement on December 6, 1996, a copy of which is attached hereto as Exhibit A. Subject to Commission approval, the Settlement Agreement will fully resolve all matters at issue and all claims and controversies between Lake and FPC relating to the Negotiated Contract.[3] FPC believes that this amicable resolution of the various disputes and controversies is in the best interest of FPC and FPC's ratepayers. The Settlement Agreement will result in significant, measurable savings to FPC's ratepayers and terminate complex litigation that requires the expense of time, money and resources by the parties to their detriment and to the detriment of FPC's ratepayers.

Terms of Settlement Agreement

7. In substance, the settlement between Lake and FPC consists of three components: (1) a new energy and capacity pricing mechanism; (2) a buy-out of

[3] The Settlement Agreement is also conditioned upon approval by Lake's Owner Trustee and, to the extent necessary, its partner Lake Interest Holdings, Inc.. FPC will advise the Commission when notice of such approval is received.

the last three years, seven months of the contract; and (3) an agreement by Lake to curtail energy deliveries during off-peak periods.

8. Energy and capacity pricing.

(a) The energy price will no longer be determined by the scheduling (on or off) of the contractually defined avoided unit, but will be based on a modified firm energy price for all hours. The coal price will be the higher of actual average monthly inventory chargeout price or $1.76/MMBtu. The heat rate to be used for energy pricing remains 9,830 BTU/kWh. Under the settlement, variable O&M is no longer a part of the energy payment.

(b) The schedule of capacity payments has been modified in two respects. First, O&M payments were removed from the energy payment and included in the capacity payment at a reduced amount. Second, future capacity payments were rescheduled and reduced to reflect the settlement agreed to by the parties (see Attachment 1 to the Settlement Agreement).

(c) FPC will reimburse Lake for disputed energy payments during the period from August 9, 1994 through October 31, 1996. FPC will pay Lake the difference between the as-available energy payments received by Lake and firm energy payments calculated under the existing contract, including interest on the difference computed in accordance with Section 13.3 of the Negotiated Contract. The parties have agreed to a value for this historical dispute of $5,512,056 as shown on Exhibit B, which FPC paid to Lake on December 11, 1996.

9. Contract Buy-out. The termination date of the contract was revised from July 31, 2013 to December 31, 2009, shortening the term of the contract by 3 years and 7 months. The cost of this buy-out will be paid to Lake in Special

Monthly Payments beginning in November 1996 and continuing through December 2008 (see Attachment 2 to the Settlement Agreement).

10. Curtailments. Lake has agreed to curtail energy deliveries to 92 MW during off-peak hours (thirteen hours per day). In addition, Lake will be treated as a Group A NUG under FPC's Generation Curtailment Plan as approved by the Commission.

11. FPC requests that the settlement payment relating to the disputed amount of historical energy payments be included in the calculation of the fuel and purchased power cost recovery clause. FPC further requests that the revised capacity payments and the buy-out payments be included in the calculation of the Capacity Cost Recovery clause.

Benefits of Settlement Agreement

12. The Settlement Agreement constitutes a comprehensive and equitable resolution of long-standing disputes among the parties. Accordingly, the Settlement Agreement and the benefits derived therefrom should be evaluated cumulatively and in their entirety. The Settlement Agreement will convey a benefit to FPC and its ratepayers by amicably resolving contentious issues and terminating the significant time and expense of litigation. Even more importantly, the modifications to the Negotiated Contract effected by the Settlement Agreement will significantly benefit FPC's ratepayers by reducing the cost of the Negotiated Contract and improving FPC's overall system cost through reductions in electrical output from Pasco's cogeneration facility during minimum load periods. These ratepayer benefits total $54.0 million over the life of Negotiated Contract, or $25.2 million on a net present value basis. A calculation of these savings is shown in Exhibit C. (This exhibit contains information that FPC claims to be

confidential proprietary business information, and is therefore included in redacted form with distributed copies of this Petition.)

WHEREFORE, Florida Power Corporation respectfully requests that the Commission:

(a) address the Petition on an expedited basis pursuant to the Commission's proposed agency action procedures;

(b) approve the Settlement Agreement to the extent necessary and appropriate, including confirmation that the Negotiated Contract, as modified by the Settlement Agreement, continues to qualify for cost recovery;

(c) allow FPC cost recovery for Settlement Agreement payments made to Lake as adjustments to previous energy payments.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By ______________________
James A. McGee
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (813) 866-5184
Facsimile: (813) 866-4931

Petition for Expedited Approval of Settlement Agreement with Lake Cogen, Ltd. by Florida Power Corporation.

EXHIBIT A

Settlement Agreement (with Negotiated Contract)

EXECUTION COPY

SETTLEMENT AGREEMENT AND AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY BETWEEN LAKE COGEN, LTD. AND FLORIDA POWER CORPORATION

THIS SETTLEMENT AGREEMENT AND AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY BETWEEN LAKE COGEN, LTD. AND FLORIDA POWER CORPORATION ("this Settlement Agreement" or "Settlement Agreement") is made and entered into as of this 6th day of December, 1996 by and between Lake Cogen, Ltd., a Florida limited partnership ("Lake"), by its general partner, NCP Lake Power Incorporated, a Delaware corporation ("NCP Lake"), and Florida Power Corporation, a Florida corporation ("FPC" or "the Company"), Lake and FPC, collectively, the "Parties," and individually, a "Party."

RECITALS

WHEREAS, Lake and FPC entered into a Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility on 13 March 1991 (the "PPA"), a copy of which is attached hereto as Exhibit 1, said firm capacity and energy to be supplied from a cogeneration facility in Lake County, Florida (the "Facility");

WHEREAS, the Parties are engaged in litigation styled NCP Lake Power Incorporated, a Delaware corporation, as General Partner of Lake Cogen Ltd., a Florida limited partnership v. Florida Power Corporation, a Florida corporation, Case No. 94-2354-CA01, pending in the Circuit Court of the Fifth Judicial Circuit in and for Lake County, Florida;

WHEREAS, Lake has asserted claims against FPC in the Litigation;

WHEREAS, after considering the contested issues in the Litigation, the expense of continued litigation, and the benefits to the Parties and FPC's customers to be received under this

Settlement Agreement, but without conceding or admitting any liability or wrongdoing of any kind or the correctness of any adverse party's position as to any disputed issue in the Litigation or under the PPA, the Parties have determined to resolve their differences, settle and compromise all claims in the Litigation, execute necessary releases, and provide for a dismissal with prejudice of all claims;

WHEREAS, the Parties to the PPA have agreed to amend, supplement, and otherwise modify the PPA in accordance with the terms set forth herein;

WHEREAS, except as explicitly noted herein, the Parties intend for this Settlement Agreement and for their respective undertakings, covenants and agreements made herein to be strictly conditioned upon approval of this Settlement Agreement in its entirety by the Florida Public Service Commission ("FPSC"), to the extent necessary and appropriate; and

WHEREAS, except as explicitly noted herein, the Parties intend for this Settlement Agreement and for their respective undertakings, covenants, and agreements made herein to be strictly conditioned upon the approval of this Settlement Agreement in its entirety by (i) Nationsbank of Florida, National Association ("Owner Trustee") as Owner Trustee under that certain Participation Agreement, dated as of July 29, 1992, by and between Lake, Owner Trustee, TIFD III-C Inc. and General Electric Capital Corporation, as amended, and (ii) to the extent required under the First Amended and Restated Limited Partnership Agreement of Lake Cogen, Ltd., as amended (the "Partnership Agreement"), by Lake Interest Holdings, Inc., a Delaware corporation ("LIHI"), or any successor to LIHI's partnership interest in Lake;

NOW, THEREFORE, in good consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree that the PPA is hereby amended, supplemented or otherwise modified as set forth below, and further agree as follows:

AGREEMENT

The foregoing recitals are incorporated by reference into this Settlement Agreement. Except to the extent specifically amended, supplemented or otherwise modified as set forth below, the PPA shall remain unchanged and in full force and effect.

1. <u>**Definitions**</u>

Unless otherwise defined herein, capitalized terms shall have the meaning assigned to such terms in the PPA.

The following terms shall have the following meanings when used herein or in the PPA:

a. *"<u>Curtailment Plan</u>" shall mean the Generation Curtailment Plan for Minimum Load Conditions as filed on October 14, 1994 by the Company in FPSC Docket No. 941101-EQ and approved by the FPSC Order PSC-95-1133-FOF-EQ dated September 11, 1995, as such plan may be amended from time to time*

This definition shall be inserted as Section 1.47 of the PPA.

b. *"<u>Curtailment Hours</u>" shall mean (i) the hours of 10:00 p.m. to 11:00 a.m. each day during the months of April through October and (ii) the hours of 10:00 p.m. to 6:00 a.m. and the hours of 12:00 noon to 5:00 p.m. each day during the months of November through March.*

This definition shall be inserted as Section 1.48 of the PPA.

c. *"<u>Coal Price</u>" shall mean the higher of*
(i) the actual average monthly inventory chargeout price of coal burned at the Avoided Unit Reference Plant (which is the Company's Crystal River Units 1&2) expressed in $/MMBtu; and
(ii) $1.76/MMBtu.

7378

This definition shall be inserted as Section 1.49 of the PPA.

d. *"On Peak Hours" means (i) the hours of 11:00 a.m. to 10:00 p.m. each day during the months of April through October and (ii) the hours of 6:00 a.m. to 12:00 noon and the hours of 5:00 p.m. to 10:00 p.m. during the months of November through March.*

This definition shall supersede and replace the definition of On Peak Hours contained in Section 1.35 of the PPA.

e. *"Settlement Date" shall mean the date on which this Settlement Agreement is fully executed by all of the Parties.*

2. **Approval by the Florida Public Service Commission**

a. This Settlement Agreement and the Parties' respective undertakings, covenants and agreements made herein are strictly conditioned upon approval of this Settlement Agreement in its entirety by the FPSC, to the extent necessary and appropriate ("FPSC Approval"). This Settlement Agreement shall have no force or effect if FPSC Approval is not obtained on or prior to July 1, 1997, and the PPA will remain as is, without amendment, supplementation or modification by this Settlement Agreement.

b. FPC shall promptly file a petition and any other necessary papers seeking FPSC Approval, and shall make all reasonable efforts to seek expeditious consideration of such petition and FPSC Approval.

c. The Parties agree to support fully the petition for FPSC Approval. At FPC's request, Lake and NCP Lake shall exercise reasonable efforts to assist FPC in seeking FPSC Approval.

d. In the event the FPSC fails to provide the approval pursuant to Section 2.a, above, nothing contained herein or in any other agreement or understanding among the Parties (other than the PPA) or reflected in any practice of a Party shall operate to waive any right FPC may have to seek repayment of any amounts

(including interest) paid pursuant to this Settlement Agreement or the PPA, or to resume the payment methodologies and practices in effect prior to the execution of this Settlement Agreement, pending an approved settlement of the Parties or disposition by the court of the claims made by the Parties in the Litigation. FPC's rights shall include a right to recoup any repayment due FPC from future capacity and energy payments, and the right to assert a set-off in the Litigation in an amount sufficient to place FPC in the position in which it would have been had FPC not made the payments described herein.

3. <u>Approval by the Owner Trustee and General Partner</u>

a. This Settlement Agreement is further expressly conditioned on its being approved by the Owner Trustee and, to the extent required under the Partnership Agreement, by LIHI or any successor to LIHI's partnership interest in Lake, in its entirety without modification or condition. Except as otherwise noted, this Settlement Agreement shall have no force or effect if such approval is not obtained.

b. Lake shall promptly contact the Owner Trustee and LIHI and provide this Settlement Agreement to the Owner Trustee and LIHI or its successor. Lake shall make all reasonable efforts to obtain expeditious consideration and approval of this Settlement Agreement by the Owner Trustee and LIHI or its successor.

4. <u>Energy Payments</u>

Section 9.1.2 of the PPA is hereby amended by deleting that section in its entirety and replacing it with the following which shall become part of the PPA:

9.1.2 Except as otherwise provided in section 9.1.1, for each billing month beginning with November, 1996 the QF shall receive for the electric energy delivered hereunder electric energy payments based upon the Firm Energy Cost calculated as follows: the product of the (i) Coal Price and (ii) the Avoided Unit Heat Rate (which is 9830 BTU/kwhr).

5. **Restructuring the Contract Term and Special Monthly Payment Rate**

a. Section 4.1 of the PPA is hereby deleted and replaced with the following:

4.1 The term of this Agreement shall begin on the Execution Date and shall expire at 24:00 hours on the last day of December 2009, unless extended pursuant to section 4.2.4 hereof or terminated in accordance with the provisions of this Agreement. Upon termination or expiration of this Agreement, the parties shall be relieved of their obligations under this Agreement, except for the obligation to pay each other all monies due under this Agreement, which obligation shall survive termination or expiration. FPC will have no obligation to purchase, and the QF will have no obligation to sell, power produced by the Facility after the Agreement's termination or expiration. Each party shall use its best efforts to enforce the validity of this Agreement and to expedite FPSC action on the Company's request for FPSC approval of this Agreement. The Company shall submit this Agreement and related documentation to the FPSC for approval within ten (10) days of the Execution Date.

b. Appendix C, Schedule 4, Option A is hereby amended by deleting that page and replacing it with Attachment 1 hereto, which attachment is made a part of the PPA.

c. As consideration for the restructuring of the contract term, FPC shall pay to Lake a Special Monthly Payment beginning with November, 1996 according to the schedule of such payments set out in Attachment 2 hereto. Inasmuch as the restructuring of the contract term set forth in Section 5.a. above is irrevocable, subject to the provisions of Sections 2 and 3, such payments shall be deemed fully earned by Lake as of the Settlement Date. Each such payment shall be made by FPC on or before the fifteenth (15th) day of the month for which such payment is due, provided that if the fifteenth (15th) day of such month falls on a Saturday, Sunday or legal holiday, such payments shall be made by FPC on or before the next business day following such Saturday, Sunday or legal holiday.

6. **Settlement Curtailment Provisions**

a. The following section 6.5 is hereby inserted in its entirety in the PPA.

> *6.5 Notwithstanding the provisions of section 6.1 of this Agreement, the QF will limit the rate of energy deliveries to the Company to 92 MW hours per hour during the Curtailment Hours. The Performance Adjustment shall not apply during the Curtailment Hours.*

b. The following Section 6.6 is hereby inserted in its entirety in the PPA:

> *6.6 The Facility shall be treated by the Company as a Group A NUG under the Curtailment Plan. The Company further agrees that any future modifications to the Company's Curtailment Plan will incorporate provisions for similarly recognizing the value of the QF's curtailment assistance, provided pursuant to Section 6.5 of this Agreement.*

7. **Reimbursement of Certain Disputed Payments**

For the period August 9, 1994 through October 31, 1996, FPC will recalculate the energy payments due for such period to Lake in order to pay Lake based on the same manner that such energy payments were being calculated before the changes adopted by FPC on August 9, 1994, and shall pay to Lake on or before December 11, 1996 an amount equal to $5,512,056, which is the difference between (i) the aggregate amount of the energy payments for the period August 9, 1994 through October 31, 1996, as recalculated, and (ii) the aggregate amount of the energy payments actually made for the period August 9, 1994 through October 31, 1996. It is specifically agreed that the coal price to be used in such recalculations is the applicable Crystal River Units 1 & 2 actual average monthly inventory chargeout price of coal for each month during the period above mentioned.

Any amounts due Lake in order to make up for shortfalls in past payments will bear interest, such interest to be calculated in accordance with Section 12.1.4 of the PPA, and paid on or before December 11, 1996.

8. **Release**

Within 15 days after the FPSC Approval becomes final and non-appealable by operation of law, Lake and FPC shall each execute and deliver to the other Party a release in (the "Release") in the form attached hereto as Exhibit 2.

9. **Agreement Not to Assert Claims Regarding Coal Procurement Practices**

Lake hereby covenants and agrees that it will not in the future bring any claim, cause of action, or complaint of any kind in any court, arbitration, or before any administrative agency, including without limitation the FERC or the FPSC ("Claim"), against FPC or its affiliates, including without limitation Florida Progress Corporation, Progress Energy Corporation and Electric Fuels Corporation, or any of their successors, relating to FPC's past, present or future coal procurement or transportation actions, practices, or procedures for FPC's Crystal River Units 1 & 2 as they relate to firm or as-available energy payments; provided, however, that a Claim may be brought, and nothing in this Settlement Agreement shall be interpreted to waive any Claim, that relates to a material change to the coal procurement or transportation actions, practices or procedures of FPC for Crystal River Units 1 & 2 which were in place on 8 November, 1995; provided further, however, that any change after 8 November, 1995, in the actual physical mix of rail versus barge transportation of District #8 Coal to Crystal River Units 1 & 2 shall be deemed not to be a material change to the coal procurement or transportation actions, practices, or procedures of FPC.

10. **Stay of Discovery and Pre-Trial Matters**

a. The Parties agree that neither will seek to have the stay of the Litigation currently in effect dissolved until the earlier of July 1, 1997 or the issuance by the FPSC of its order on FPC's petition for FPSC Approval pursuant to Section 2 hereof.

b. Within 15 days of the FPSC Approval becoming final and non-appealable by operation of law, Lake shall file the papers attached hereto as Exhibit 3 in order to effect a dismissal with prejudice of the Litigation, including all claims contained therein, and to set aside the Order Granting Partial Summary Judgment for the Plaintiffs and against the Defendant, entered January 23, 1996 in the Litigation. Should Lake fail to so

move the court, FPC shall be entitled to move for such dismissal and the setting aside of such order, which motion Lake shall not oppose.

11. **Legal Fees and Expenses**

Each Party shall bear its own legal fees and expenses incurred in the Litigation and in connection with the negotiation, execution and delivery of this Settlement Agreement and the transactions contemplated hereby.

12. **Return or Destruction of Confidential Materials**

a. Notwithstanding the terms of the Confidentiality Agreement governing return or destruction of confidential documents, outside counsel for the respective parties may retain copies of deposition transcripts and copies of marked deposition exhibits (1) in accordance with their respective firm's procedures for retention of litigation files, and (2) for use in any dispute among the Parties arising under this Settlement Agreement or under the PPA.

b. Other than as expressly provided in 12.a and in this paragraph b, all Confidential and Specially Restricted Documents produced by any Party in the Litigation (except any such documents as are, at the time for return or destruction hereinafter provided, subject to a subpoena duces tecum for their production, or other legal process ("Subpoenaed Documents")) shall be returned to the producing Party or destroyed within 15 days of the FPSC Approval becoming final and non appealable by operation of law. Any Subpoenaed Documents shall be returned to the producing Party or destroyed within 15 days of the date on which such Subpoenaed Documents may be lawfully returned or destroyed. In the event any documents subject to the requirements of this paragraph b (including the Subpoenaed Documents) are destroyed by a Party rather than returned, counsel for that Party shall certify in writing to the producing Party that destruction has in fact occurred, said notification to be provided within 10 days of document destruction. Neither the Parties nor counsel for the Parties shall be permitted to utilize Confidential or Specially Restricted information (as such information is defined in the

Confidentiality Agreement) in any fashion, except as provided in 12.a, above.

13. No Assistance in Other Litigation

Beginning on the Settlement Date and continuing thereafter, unless the approvals required by Sections 2 and 3 hereof are not obtained, neither Lake nor NCP Lake, either directly or through their agents, shall assist (except to the extent required by the process of law) parties adverse to FPC with the prosecution of the litigation currently pending between FPC and Dade County, or FPC and Panda-Kathleen, and involving any issues arising out of acts or omissions prior to the Settlement Date relating to energy payments under section 9.1.2 of the PPA as it existed before amendment by this Agreement, and coal transportation issues. This provision is not intended to disqualify any outside counsel, outside consultant, or expert witness who has been or may be engaged by any Party in the pending litigation or any litigation which may be brought; provided, however, that this provision is not intended to waive a party's right to assert any independent basis for disqualification of any of the foregoing persons; nor is this provision intended to excuse obligations otherwise imposed under the terms of the aforesaid Confidentiality Agreement. Notwithstanding any other provision in the PPA, this agreement not to assist in other litigation will not extend to: (i) any matter not of the type actually disputed in the Litigation, and (ii) claims of the type specifically preserved in Section 9 hereof; and provided further that this Agreement is not intended to interfere with any lawfully required testimony or to be construed as requiring any witness so testifying to testify in any way other than a completely truthful manner.

14. Representations and Warranties

Each of the Parties hereto represents and warrants that:

a. It has full authority, and has obtained all necessary corporate or partnership approvals, as appropriate, to execute this Settlement Agreement, and will have the full authority and will have obtained all necessary corporate or partnership approvals, as appropriate, to execute the Release when said Release is executed.

b. The individual signing on its behalf is authorized to do so.

c. It has obtained or will undertake reasonable efforts to obtain all necessary approvals of third parties. In the case of Lake, this includes the Owner Trustee. In the case of FPC, this includes the FPSC.

15. **Complete Agreement**

This Settlement Agreement together with the PPA contains the complete agreement and understanding between the Parties hereto, their agents, and their employees as to the subject matter of this Settlement Agreement and supersedes in its entirety any and all previous communications between the Parties.

16. **Governing Law**

This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to any choice of law rules that may require the application of laws of another jurisdiction.

17. **Interpretation**

If any provision of this Settlement Agreement conflicts with any provision of the PPA, the provisions of this Settlement Agreement govern.

18. **Amendments**

This Settlement Agreement may be modified only by an instrument in writing executed by the Parties.

19. **Successors and Assigns**

This Settlement Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

20. **Section Headings for Convenience**

Article or section headings appearing in this Settlement Agreement are inserted for convenience only and shall not be construed as interpretations of text.

21. Counterparts

This Settlement Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

22. No Admission of Fault

The Parties acknowledge that this Settlement Agreement is being entered into for the purposes of settlement only and to avoid the expense and disruption of legal proceedings, taking into account the uncertainty and risk inherent in any litigation. Neither this Settlement Agreement nor any action taken to reach, effectuate or further this Settlement Agreement may be construed as, or may be used as, an admission by or against any party of any fault, wrongdoing, or liability whatsoever, nor as an admission by or against any party of any fault, wrongdoing, or liability whatsoever, nor as an admission concerning any specific issue raised in the Litigation.

23. Parties to PPA

Notwithstanding any provision of the Settlement Agreement, NCP Lake is not, nor shall any provision herein be interpreted to cause it to become, a party to the PPA.

24. **Negotiations Not Admissible**

All discussions, negotiations and preliminary draft materials leading to the preparation and execution of this Settlement Agreement shall be treated as compromise and settlement materials. Nothing said or disclosed, and no documents prepared in the course of such negotiations not otherwise independently discoverable, shall be offered or received as evidence or used for impeachment or for any other purpose in any current or future administrative proceeding, arbitration, or litigation.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement by the undersigned thereunto duly authorized as of the date first set forth above.

Lake-Cogen, Ltd.
By NCP Lake Power Incorporated, a General Partner

By: [signature]

As Its: Vice President

Dated: December 5, 1996

Florida Power Corporation

By: [signature]
Michael B. Foley, Jr.

As Its: Senior Vice President

Dated: December 6, 1996

7378

Attachment 1

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY

SCHEDULE 4
PAYMENTS FOR AVOIDED 1991 PULVERIZED COAL UNIT

OPTION A

(1)	(2)	(3)
	CAPACITY PAYMENT - $/kW/MONTH	
CALENDAR YEAR	ACCELERATED PAYMENT RATE(a)	MODIFIED PAYMENT RATE (a)(b)
1996	14.00	17.39
1997	14.72	18.27
1998	15.32	19.05
1999	15.93	19.85
2000	16.74	20.87
2001	17.60	21.28
2002	18.49	22.36
2003	19.33	23.40
2004	20.22	24.50
2005	21.25	25.48
2006	22.34	26.79
2007	23.47	28.14
2008	24.54	29.46
2009	25.66	30.82

NOTES:

(a) The foregoing payment rates are prior to applying the ratio of the Committed On-Peak Capacity Factor (90%) to the minimum On-Peak Capacity Factor (83%).

(b) Modified payment rate in 1996 is effective November 1, 1996.

Attachment 2

SPECIAL MONTHLY PAYMENTS

CALENDAR YEAR	SPECIAL MONTHLY PAYMENT $/MONTH
1996	800,000
1997	390,803
1998	328,769
1999	387,538
2000	421,416
2001	433,717
2002	215,166
2003	252,756
2004	259,667
2005	266,662
2006	338,584
2007	368,481
2008	407,172
2009	0

(a) Special monthly payment rate for 1996 effective November 1, 1996

EXHIBIT 1

[PPA]

Interconnected

NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY

between

LAKE COGEN LIMITED

and

FLORIDA POWER CORPORATION

TABLE OF CONTENTS

PAGE

INTRODUCTION AND PARTIES
RECITALS 1

ARTICLE I
DEFINITIONS 2

ARTICLE II
TRANSMISSION LIMITATIONS 8

ARTICLE III
FACILITY 9

ARTICLE IV
TERM & MILESTONES 10

ARTICLE V
QF OPERATING RESPONSIBILITIES 12

ARTICLE VI
PURCHASE AND SALE OF CAPACITY
AND ENERGY 13

ARTICLE VII
CAPACITY COMMITMENT 14

ARTICLE VIII
CAPACITY PAYMENTS 16

ARTICLE IX
ENERGY PAYMENTS 19

ARTICLE X
CHARGES TO THE QF 20

ARTICLE XI
METERING 21

PAGE

ARTICLE XII
PAYMENT PROCEDURE 22

ARTICLE XIII
SECURITY GUARANTIES 23

ARTICLE XIV
REPRESENTATIONS, WARRANTIES AND
COVENANTS 25

ARTICLE XV
EVENTS OF DEFAULT; REMEDIES 26

ARTICLE XVI
PERMITS 31

ARTICLE XVII
INDEMNIFICATION 31

ARTICLE XVIII
EXCLUSION OF INCIDENTAL, CONSEQUENTIAL
AND INDIRECT DAMAGES 32

ARTICLE XIX
INSURANCE 32

ARTICLE XX
REGULATORY CHANGES 33

ARTICLE XXI
FORCE MAJEURE 34

ARTICLE XXII
FACILITY RESPONSIBILITY AND ACCESS 35

ARTICLE XXIII
SUCCESSORS AND ASSIGNS 36

ARTICLE XXIV
DISCLAIMER 36

PAGE

ARTICLE XXV
WAIVERS 37

ARTICLE XXVI
COMPLETE AGREEMENT 37

ARTICLE XXVII
COUNTERPARTS 37

ARTICLE XXVIII
COMMUNICATIONS 38

ARTICLE XXIX
SECTION HEADINGS FOR CONVENIENCE 39

ARTICLE XXX
GOVERNING LAW 39

EXECUTION 40

NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY

This Agreement ("Agreement") is made and entered by and between Lake Cogen Limited, a limited partnership, having its principal place of business at Tampa, Florida (hereinafter referred to as the "QF"), and Florida Power Corporati . a private utility corporation organized under the laws of the State of Florida, having its principal place of business at St. Petersburg, Florida (hereinafter referred to as the "Company"). The QF and the Company may be hereinafter referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the QF desires to sell, and the Company desires to purchase, electricity to be generated by the Facility and made available for sale to the Company, consistent with FPSC Rules 25-17.080 through 25-17.091 in effect as of the Execution Date; and

WHEREAS, the QF will engage in interconnected operation of the QF's generating facility with the Company.

NOW, THEREFORE, for mutual consideration, the Parties covenant and agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and in the Appendices hereto, the following capitalized terms shall have the following meanings:

1.1 Appendices means the schedules, exhibits and attachments which are appended hereto and are hereby incorporated by reference and made a part of this Agreement.

1.1.1 Appendix A sets forth the Company's Interconnection Scheduling and Cost Procedures.

1.1.2 Appendix B sets forth the Company's Parallel Operating Procedures.

1.1.3 Appendix C sets forth the Company's Rates for Purchase of Firm Capacity and Energy from a Qualifying Facility.

1.1.4 Appendix D is reserved.

1.1.5 Appendix E sets forth FPSC Rules 25-17.080 through 25-17.091 in effect as of the Execution Date.

1.2 Accelerated Capacity Payment means payments based upon the accelerated payment rates in Appendix C.

1.3 As-Available Energy Cost means the energy rate calculated in accordance with FPSC Rule 25-17.0825 as such rule may be amended from time to time.

1.4 Avoided Unit Fuel Reference Plant means that Company unit(s) whose delivered price of fuel shall be used as a proxy for the fuel associated with the avoided unit type selected in section 8.2.1 hereof as such unit(s) are defined in Appendix C.

1.5 Avoided Unit Heat Rate means the average annual heat rate associated with the unit type selected in section 8.2.1 hereof as it is defined in Appendix C.

1.6 Avoided Unit Variable O & M means the variable operation and maintenance expense associated with the unit type selected in section 8.2.1 hereof as it is defined in Appendix C.

1.7 BTU means British thermal unit.

1.8 Capacity Account means that account which complies with the procedure in section 8.5 hereof.

1.9 Capacity Discount Factor means the value specified pursuant to section 8.4 hereof.

1.10 Capacity Payment Adjustment means the value calculated pursuant to Appendix C.

1.11 Commercial In-Service Status means (i) that the Facility is in compliance with all applicable Facility permits; (ii) that the Facility has maintained an hourly KW output, as metered at the Point of Delivery, equal to or greater than the Committed Capacity for a consecutive twenty-four (24) hour period or during the on-peak hours specified in Appendix C of two consecutive days; and (iii) that such twenty-four (24) hour period is reasonably reflective of the Facility's day to day operations.

1.12 Committed Capacity means the KW capacity, as defined in Article VI hereof, which the QF has agreed to make available on a firm basis during the On-Peak Hours at the Point of Delivery.

1.13 Committed On-Peak Capacity Factor means the On-Peak Capacity Factor, as defined in Article VII hereof, which the QF has agreed to make available on a firm basis at the Point of Delivery.

1.14 Company's Interconnection Facilities means all equipment which is constructed, owned, operated and maintained by the Company located on the Company's side of the Point of Delivery, including without limitation, equipment for connection, switching, transmission, distribution, protective relaying and safety provisions which, in the Company's reasonable judgment, is required to be installed for the delivery and measurement of electric energy into the Company's system on behalf of the QF, including all metering and telemetering equipment installed for the measurement of such energy regardless of its location in relation to the Point of Delivery.

1.15 Completion Security Guaranty means the deposits or other assurances as specified in section 13.1 hereof.

1.16 Contract Approval Date means the date of issuance of a final FPSC order approving this Agreement, without change, finding that it is prudent and cost recoverable by the Company through the FPSC's periodic review of fuel and purchased power costs, which order shall be considered final when all opportunities for requesting a hearing, requesting reconsideration, requesting clarification and filing for judicial review have expired or are barred by law.

1.17 Contract In-Service Date means the date, as specified in Article IV hereof, by which the QF has agreed to achieve Commercial In-Service Status.

1.18 Construction Commencement Date means the date on which work on the concrete foundation for the turbine generator begins and substantial construction activity at the Facility site thereafter continues.

1.19 Control Area means a utility system capable of regulating its generation in order to maintain its interchange schedule with other utility systems and contribute its frequency bias obligation to the interconnection.

1.20 Execution Date means the latter of the date on which the Company or the QF executes this Agreement.

1.21 Facility means all equipment, as described in this Agreement, used to produce electric energy and, for a cogeneration facility, used to produce useful thermal energy through the sequential use of energy and all equipment that is owned or controlled by the QF required for parallel operation with the interconnected utility.

1.22 FERC means the Federal Energy Regulatory Commission and any successor.

1.23 Firm Energy Cost means the energy rate calculated in accordance with section 9.1.2 hereof.

1.24 Florida-Southern Interface means the points of interconnection between the electric Control Areas of (1) Florida Power & Light Company, Florida Power Corporation, Jacksonville Electric Authority, and the City of Tallahassee and (2) Southern Company.

1.25 Force Majeure Event means an event or occurrence that is not reasonably foreseeable by a Party, is beyond its reasonable control, and is not caused by its negligence or lack of due diligence, including, but not limited to, natural disasters, fire, lightning, wind, perils of the sea, flood, explosions, acts of God or the public enemy, strikes, lockouts, vandalism, blockages, insurrections, riots, war, sabotage, action of a court or public authority, or accidents to or failure of equipment or machinery.

1.26 FPSC means the Florida Public Service Commission and any successor.

1.27 Fuel Multiplier means that value associated with the unit type selected in section 8.2.1 hereof as it is defined in Appendix C.

1.28 Import Capability means the capability to import power at the Florida-Southern Interface, giving consideration to the various limitations imposed upon those facilities by the electric systems to which they are directly or indirectly connected.

1.29 Interconnection Costs means the actual costs incurred by the Company for the Company's Interconnection Facilities, including, without limitation, the cost of equipment, engineering, communication and administrative activities.

1.30 Interconnection Costs Offset means the estimated costs included in the Interconnection Costs that the Company would have incurred if it were not purchasing Committed Capacity and electric energy but instead itself generated or purchased from other sources an equivalent amount of Committed Capacity and electric energy and provided normal service to the Facility as if it were a non-generating customer.

1.31 KW means one (1) kilowatt of electric capacity.

1.32 KWH means one (1) kilowatthour of electric energy.

1.33 Minimum On-Peak Capacity Factor means that value which is associated with the unit type selected in section 8.2.1 hereof as it is defined in Appendix C.

1.34 MWH means one (1) megawatthour of electric energy.

1.35 On-Peak Hours means the lesser of those daily time periods specified in Appendix C or the hours that the Company would have operated a unit with the characteristics defined in section 9.1.2 (i) hereof.

1.36 On-Peak Capacity Factor means the ratio calculated pursuant to section 8.3 hereof.

1.37 Operational Event of Default means an event or circumstance defined as such in Article XV hereof.

1.38 Operational Security Guaranty means the deposits or other assurances as specified in section 13.3 hereof.

1.39 Performance Adjustment means the value calculated pursuant to Appendix C.

1.40 Point of Delivery means the point(s) where electric energy delivered to the Company pursuant to this Agreement enters the Company's system.

1.41 Point of Metering means the point(s) where electric energy made available for delivery to the Company, subject to adjustment for losses, is measured.

1.42 Point of Ownership means the interconnection point(s) between the Facility and the interconnected utility.

1.43 Pre-Operational Event of Default means an event or circumstance defined as such in Article XV hereof.

1.44 Qualifying Cogeneration Facility means a facility that meets the requirements defined in section 3(18)(B) of the Federal Power Act, as amended by section 201 of the Public Utility Regulatory Policies Act of 1978, and that is certified as such by the FERC pursuant to applicable FERC regulations.

1.45 Term means the duration of this Agreement as specified in Article IV hereof.

1.46 Reserved

ARTICLE II: TRANSMISSION LIMITATIONS

2.1 For a QF with a Facility located north of the latitude of the Company's Central Florida Substation, the Company will use its best efforts to obtain an amount of Import Capability equal to the diminution of Import Capability caused by the Facility during the Term of this Agreement and the QF agrees to reimburse the Company for the costs of such Import Capability.

2.2 The Company will notify the QF in writing of the availability and cost of the required Import Capability within sixty (60) days after the Execution Date. Such reimbursement shall not be considered as a reduction in the payments made by the Company to the QF for capacity and energy under this Agreement. The QF may terminate this Agreement after receiving such notification without penalty prior to the date that the Completion Security Guaranty is due pursuant to section 13.1 hereof.

ARTICLE III: FACILITY

3.1 The Facility shall be located in Section 23, Township 18S, Range 26E. The Facility shall meet all other specifications identified in the Appendices hereto in all material respects and no change in the designated location of the Facility shall be made by the QF. The Facility shall be designed and constructed by the QF or its agents at the QF's sole expense.

3.2 Throughout the Term of this Agreement, the Facility shall be a Qualifying Cogeneration Facility.

3.3 Except for Force Majeure Events declared by the Facility's fuel supplier(s) or fuel transporter(s) which comply with the definition of Force Majeure Events as specified in this Agreement and occur after the Contract In-Service Date, the Facility's ability to deliver its Committed Capacity shall not be encumbered by interruptions in its fuel supply.

3.4 The QF shall either (i) arrange for and maintain standby electrical service under a firm tariff; or (ii) maintain the ability to restart and/or continue operations during interruptions of electric service; or (iii) maintain multiple independent sources of generation.

3.5 From the Execution Date through the Contract In-Service Date, the QF shall provide the Company with progress reports on the first day of January, April, July and October which describe the current status of Facility development in such detail as the Company may reasonably require.

ARTICLE IV: TERM AND MILESTONES

4.1 The Term of this Agreement shall begin on the Execution Date and shall expire at 24:00 hours on the last day of July, 2013, unless extended pursuant to section 4.2.4 hereof or terminated in accordance with the provisions of this Agreement. Upon termination or expiration of this Agreement, the Parties shall be relieved of their obligations under this Agreement except for the obligation to pay each other all monies under this Agreement, which obligation shall survive termination or expiration. Each Party shall use its best efforts to enforce the validity of this Agreement and to expedite FPSC action on the Company's request for FPSC approval of this Agreement. The Company shall submit this Agreement and related documentation to the FPSC for approval within ten (10) days of the Execution Date.

4.2 The Parties agree that time is of the essence and that: (i) the Construction Commencement Date shall occur on or before the first day of January, 1992; and (ii) the Facility shall achieve Commercial In-Service Status on or before the first day of August, 1993, which date shall constitute the Contract In-Service Date. These two dates shall not be modified except as provided in section 4.2.1, 4.2.2, 4.2.3 and 4.2.5 hereof.

4.2.1 Upon written request by the QF, these two dates each may be extended on a day-for-day basis for each day that the Contract Approval Date exceeds one hundred twenty (120) days after the date the Company submits this Agreement and related documentation to the FPSC for approval; provided, however, that the QF's notice shall specifically identify the date and duration for which extension is being requested; and provided, further, that the maximum extension of such date shall in no event exceed a total of one hundred and eighty (180) days. Such delay shall not be considered a Force Majeure Event for purposes of this Agreement.

4.2.2 Upon written request by the QF not more than sixty (60) days after the declaration of a Force Majeure Event by the QF, which event contributes proximately and materially to a delay in the QF's schedule, these two dates each may be extended on a day-for-day basis for each day of delay so caused by the Force Majeure Event; provided, however, that the QF shall specifically identify: (i) each date for which extension is being requested; and (ii) the expected duration of the Force Majeure Event; and provided further, that the maximum extension of any of these two dates shall in no event exceed a total of one hundred and eighty (180) days, irrespective of the nature or number of Force Majeure Events declared by the QF.

4.2.3 The Contract In-Service Date shall be extended on a day-for-day basis for any delays directly attributable to the Company's failure to complete its obligations hereunder.

4.2.4 If the Contract In-Service Date is extended pursuant to sections 4.2.1, 4.2.2 or 4.2.3 hereof, then the Term of the Agreement may be extended for the same number of days upon separate written request by the QF not more than thirty (30) days after the Contract In-Service Date.

4.2.5 The QF shall have the one-time option of accelerating the Contract In-Service Date by up to six (6) months upon written notice to the Company not less than thirty (30) days before the accelerated Contract In-Service Date; provided, however, that (i) the QF shall be in compliance with all applicable requirements of this Agreement as of such earlier date; and (ii) the Company's Interconnection Facilities can reasonably be expected to be operational as of such earlier date.

ARTICLE V: OF OPERATING RESPONSIBILITIES

5.1 During the Term of this Agreement, the QF shall:

5.1.1 Have the sole responsibility to, and shall at its sole expense, operate and maintain the Facility in accordance with all requirements set forth in this Agreement.

5.1.2 Provide the Company prior to October 1 of each calendar year the estimated amounts of electricity to be generated by the Facility and delivered to the Company for each month of the following calendar year, including the estimated time, duration and magnitude of any planned outages or reductions in capacity.

5.1.3 Promptly notify the Company of any changes to the yearly generation and maintenance schedules.

5.1.4 Provide the Company by telephone or facsimile prior to 9:00 A.M. of each day an estimate of the hourly amounts of electric energy to be delivered at the Point of Delivery for the next succeeding day.

5.1.5 Coordinate scheduled outages and maintenance of the Facility with the Company. The QF agrees to recognize and accommodate the Company's system demands and obligations by exercising reasonable efforts to schedule outages and maintenance during such times as are designated by the Company.

5.1.6 Comply with reasonable requirements of the Company regarding day-to-day or hour-by-hour communications with the Company.

5.2 The estimates and schedules provided by the QF under this Article V shall be prepared in good faith, based on conditions known or anticipated at the time such estimates and schedules are made, and shall not be binding upon either Party; provided, however, that the QF shall in no event be relieved of its obligation to deliver Committed Capacity under the terms and conditions of this Agreement.

ARTICLE VI: PURCHASE AND SALE OF CAPACITY AND ENERGY

6.1 Commencing on the Contract In-Service Date, the QF shall commit, sell and arrange for delivery of the Committed Capacity to the Company and the Company agrees to purchase, accept and pay for the Committed Capacity made available to the Company at the Point of Delivery in accordance with the terms and conditions of this Agreement. The QF also shall sell and deliver or arrange for the delivery of the electric energy to the Company and the Company agrees to purchase, accept, and pay for such electric energy as is made available for sale to and received by the Company at the Point of Delivery.

6.2 The Committed Capacity and electric energy made available at the Point of Delivery to the Company shall be (X) net of any electric energy used on the QF's side of the Point of Ownership or ( ) simultaneous with any purchases from the interconnected utility. This selection in billing methodology shall not be changed.

6.3 If the Company is unable to receive part or all of the Committed Capacity which the QF has made available for sale to the Company at the Point of Delivery by reason of (i) a Force Majeure Event; or (ii) pursuant to FPSC Rule 25-17.086, notice and procedural requirements of Article XXI shall apply and the Company will nevertheless be obligated to make capacity payments which the QF would be otherwise qualified to receive, and to pay for energy actually received, if any. The Company shall

not be obligated to pay for energy which the QF would have delivered but for such occurrences and QF shall be entitled to sell or otherwise dispose of such energy in any lawful manner; provided, however, such entitlement to sell shall not be construed to require the Company to transmit such energy to another entity.

6.4 The QF shall not commence initial deliveries of energy to the Point of Delivery without the prior written consent of the Company, which consent shall not be unreasonably withheld. The QF shall provide the Company not less than thirty (30) days written notice before any testing to establish the Facility's Commercial In-Service Status. Representatives of the Company shall have the right to be present during any such testing.

ARTICLE VII: CAPACITY COMMITMENT

7.1 The Committed Capacity shall be 102,000 KW, unless modified in accordance with this Article VII. The Committed Capacity shall be made available at the Point of Delivery from the Contract In-Service Date through the remaining Term of this Agreement at a Committed On-Peak Capacity Factor of 90%.

7.2 For the period ending one (1) year immediately after the Contract In-Service Date, the QF may, on one occasion only, increase or decrease the initial Committed Capacity by no more than ten percent (10%) of the Committed Capacity specified in section 7.1 hereof as of the Execution Date upon written notice to the Company before such change is to be effective.

7.3 After the one (1) year period specified in section 7.2, and except as provided in section 7.4, the QF may decrease its Committed Capacity over the Term of this Agreement by amounts not to exceed in the aggregate more than twenty percent (20%) of the initial Committed Capacity specified in section 7.1 hereof as of the Execution Date. Notwithstanding any other provision of this Agreement, if less than three (3) years prior written notice is provided for any such decrease, the QF shall be subject to an

adjustment to the otherwise applicable payments (except as provided in section 7.4) which shall begin when the Committed Capacity is decreased and which shall end three (3) years after notice of such decrease is provided. For each month, this adjustment shall be equal to the lesser of (i) the estimated increased costs incurred by the Company to generate or purchase an equivalent amount of replacement capacity and energy and (ii) the reduction in Committed Capacity times the applicable Normal Capacity Payment rate from Appendix C. Such adjustment shall assume that the difference between the original Committed Capacity and the redesignated Committed Capacity, during all hours of the replacement period, would operate at the On-Peak Capacity Factor at the time notice is provided.

7.4 During a Force Majeure Event declared by the QF, the QF may temporarily redesignate the Committed Capacity for up to twenty-four (24) consecutive months; provided, however, that no more than one such temporary redesignation may be made within any twenty-four (24) month period unless otherwise agreed by the Company in writing. Within three (3) months after such Force Majeure Event is cured, the QF may, on one occasion, without penalty, designate a new Committed Capacity to apply for the remaining Term; provided, however, that such new Committed Capacity shall be subject to the aggregate capacity reduction limit specified in section 7.3. Any temporary or final redesignation of the Committed Capacity pursuant to this section 7.4 must, in the Company's judgment, be directly attributable to the Force Majeure Event and of a magnitude commensurate with the scope of the Force Majeure Event. Redesignations of Committed Capacity pursuant to this section 7.4 shall not be subject to the payment adjustment provisions of section 7.3.

7.5 A redesignated Committed Capacity pursuant to this Article VII shall be stated to the nearest whole KW and shall be effective only on the commencement of a full billing period.

7.6 The Company shall have the right to require that the QF, not more than once in any twelve (12) month period, re-demonstrate the Commercial In-Service Status of the Facility within sixty (60) days of the demand; provided, however, that such demand shall be coordinated with the QF so that the sixty (60) day period for re-demonstration avoids, if practical, previously notified periods of planned outages and reduction in capacity pursuant to Article V.

ARTICLE VIII: CAPACITY PAYMENTS

8.1 Capacity payments shall not commence before the Contract Approval Date and before the Contract In-Service Date and (i) until the QF has achieved Commercial In-Service Status and (ii) until the QF has posted the Operational Security Guaranty pursuant to section 13.2 hereof.

8.2 Capacity payments shall be based upon the following selections as described in Appendix C.

8.2.1 Unit type:

( ) Combustion turbine, Schedule 2

(X) Pulverized coal, Schedule 4, Option A

8.2.2 Payment options:

( ) Normal Capacity Payments

(X) Accelerated Capacity Payments

8.3 At the end of each billing month, beginning with the first full month following the Contract In-Service Date, the Company will calculate the On-Peak Capacity Factor on a rolling average basis for the most recent twelve (12) month period, including such month, or for the actual number of full months since the Contract In-Service Date if less than twelve (12) months, based on the On-Peak Hours defined in Appendix C. The On-Peak Capacity Factor shall be calculated as the electric energy actually received by the Company at the Point of Delivery during the On-Peak Hours of the applicable period divided by the product of the Committed Capacity and the number of On-Peak Hours during the applicable period. In calculating the On-Peak Capacity Factor, the Company shall exclude hours and electric energy delivered by the QF during periods in which: (i) the Company does not or cannot perform its obligations to receive all the electric energy which the QF has made available at the Point of Delivery; or (ii) the QF's payments for electric energy are being calculated pursuant to section 9.1.1 hereof.

8.4 The monthly capacity payment shall equal the product of (i) the applicable capacity payment rate; (ii) the Committed Capacity; (iii) the ratio of the Committed On-Peak Capacity Factor to the Minimum On-Peak Capacity Factor; (iv) the Capacity Payment Adjustment; (v) the Capacity Discount Factor of 1.00 and (vi) the ratio of the total number of hours in the billing period less the number of hours during which the QF is being paid for energy pursuant to section 9.1.1 to the total number of hours in the billing period.

8.5 The Parties recognize that Accelerated Capacity Payments are in the nature of "early payment" for a future capacity benefit to the Company when such payments exceed Normal Capacity Payments without consideration of the Capacity Discount Factor. To ensure that the Company will receive a capacity benefit for such difference in capacity payments which have been made, or alternatively, that the QF will repay the amount of such difference in payments received to the extent the capacity benefit has not been conferred, the following provisions will apply:

8.5.1 When the QF is first entitled to a capacity payment, the Company shall establish a Capacity Account. Each month the Capacity Account shall be credited in the amount of the Company's Accelerate Capacity Payments and shall be debited in the amount which the Company would have paid for capacity in the month pursuant to the Normal Capacity Payment without consideration of the Capacity Discount Factor.

8.5.2 In addition to the amounts pursuant to section 8.5.1 hereof, each month the Capacity Account shall be credited in the amount of any increased income taxes owed by the Company resulting from Accelerated Capacity Payments and shall be debited in the amount of any decreased income taxes owned by the Company resulting from Accelerated Capacity Payments. If such tax impacts are recovered by the Company, the Company will adjust the Capacity Account accordingly.

8.5.3 The monthly balance in the Capacity Account shall accrue interest at the annual rate of 9.96%, or 0.79436% per month.

8.5.4 The QF shall owe the Company and be liable for the credit balance in the Capacity Account. The Company agrees to notify QF monthly as to the current Capacity Account balance. Prior to receipt of Accelerated Capacity Payments, the QF shall execute a promise to repay any credit balance in the Capacity Account; provided that the entity issuing such promise, the form of the promise, and the means of securing payment all shall be acceptable to the Company in its sole discretion.

8.5.5 The QF's obligation to pay the credit balance in the Capacity Account shall survive termination or expiration of this Agreement.

ARTICLE IX: ENERGY PAYMENTS

9.1 For that electric energy received by the Company at the Point of Delivery each month, the Company will pay the QF an amount computed as follows:

9.1.1 Prior to the Contract In-Service Date and for the duration of an Event of Default or a Force Majeure Event declared by the QF prior to a permitted redesignation of the Committed Capacity by the QF, the QF will receive electric energy payments based on the Company's As-Available Energy Cost as calculated hourly in accordance with FPSC Rule 25-17.0825; provided, however, that the calculation shall be based on such rule as it may be amended from time to time.

9.1.2 Except as otherwise provided in section 9.1.1 hereof, for each billing month beginning with the Contract In-Service Date, the QF will receive electric energy payments based upon the Firm Energy Cost calculated on an hour-by-hour basis as follows: (i) the product of the average monthly inventory chargeout price of fuel burned at the Avoided Unit Fuel Reference Plant, the Fuel Multiplier, and the Avoided Unit Heat Rate, plus the Avoided Unit Variable O & M, if applicable, for each hour that the Company would have had a unit with these characteristics operating; and (ii) during all other hours, the energy cost shall be equal to the As-Available Energy Cost.

9.1.3 Energy payments shall be equal to the sum, over all hours of the month, of the product of each hour's energy cost as determined pursuant to section 9.1.1 hereof or section 9.1.2 hereof, whichever is applicable, and the energy received by the Company at the Point of Delivery, plus the Performance Adjustment.

9.2 Energy payments pursuant to sections 9.1.1 and 9.1.2 hereof shall be subject to the Delivery Voltage Adjustment pursuant to Appendix C.

ARTICLE X: CHARGES TO THE QF

10.1 The Company shall bill and the QF shall pay all charges applicable under this Agreement.

10.2 To the extent not otherwise included in the charges under section 10.1 hereof, the Company shall bill and the QF shall pay a monthly charge equal to any taxes, assessments or other impositions for which the Company may be liable as a result of its installation of facilities in connection with this Agreement, its purchases of Committed Capacity and electric energy from the QF or any other activity undertaken pursuant to this Agreement. Such amounts billed shall not include any amounts (i) for which the Company would have been liable had it generated or purchased from other sources an equivalent amount of Committed Capacity and electric energy; or (ii) which are recovered by the Company; or (iii) which are accrued in the Capacity Account pursuant to section 8.5.2 hereof.

ARTICLE XI: METERING

11.1 All electric energy delivered to the Company shall be capable of being measured hourly at the Point of Metering. All electric energy delivered to the Company shall be adjusted for losses from the Point of Metering to the Point of Delivery. Metering equipment required to measure electric energy delivered to the Company and the telemetering equipment required to transmit such measurements to a location specified by the Company shall be installed, calibrated and maintained by the Company and all related applicable costs shall be charged to the QF, pursuant to Appendix A, as part of the Company's Interconnection Facilities.

11.2 All meter testing and related billing corrections, for electricity sold and purchased by the Company, shall conform to the metering and billing guidelines contained in FPSC Rules 25-6.052 through 25-6.060 and FPSC Rule 25-6.103, as they may be amended from time to time, notwithstanding that such guidelines apply to the utility as the seller of electricity.

11.3 The QF shall have the right to install, at its own expense, metering equipment capable of measuring energy on an hourly basis at the Point of Metering. At the request of the QF, the Company shall provide the QF hourly energy cost data from the Company's system; provided that the QF agrees to reimburse the Company for its cost to provide such data.

ARTICLE XII: PAYMENT PROCEDURE

12.1 Bills shall be issued and payments shall be made monthly to the QF and by the QF in accordance with the following procedures:

12.1.1 The capacity payment, if any, calculated for a given month pursuant to Article VIII hereof shall be added to the electric energy payment, if any, calculated for such month pursuant to Article IX hereof, and the total shall be reduced by the amount of any payment adjustments pursuant to section 7.3 hereof. The resulting amount, if any, shall be tendered, with cost tabulations showing the basis for payment, by the Company to the QF as a single payment. Such payments to the QF shall be due and payable twenty (20) business days following the date the meters are read.

12.1.2 When any amount is owing from the QF, the Company shall issue a monthly bill to the QF with cost tabulations showing the basis for the charges. All amounts owing to the Company from the QF shall be due and payable twenty (20) business days after the date of the Company's billing statement. Amounts owing to the Company for retail electric service shall be payable in accordance with the provisions of the applicable rate schedule.

12.1.3 At the option of the QF, the Company will provide a net payment or net bill, whichever is applicable, that consolidates amounts owing to the QF with amounts owing to the Company.

12.1.4 Except for charges for retail electric service, any amount due and payable from either Party to the other pursuant to this Agreement that is not received by the due date shall accrue interest from the due date at the rate specified in section 13.3 hereof.

ARTICLE XIII: SECURITY GUARANTIES

13.1 Within sixty (60) days after the Contract Approval Date, the QF shall post an Completion Security Guaranty with the Company equal to $10.00 per KW of Committed Capacity to ensure completion of the Facility in a timely fashion as contemplated by this Agreement. This Agreement shall terminate if the Completion Security Guaranty is not tendered by the QF on or before the applicable due date specified herein. The QF shall either: (i) pay the Company cash in the form of a certified check in an amount equal to the Completion Security Guaranty; or (ii) provide the Company an unconditional and irrevocable direct pay letter of credit or other promise to pay such amount upon failure of the QF to perform its obligations under this Agreement; provided that the entity issuing such promise, the form of the promise, and the means of securing payment all shall be acceptable to the Company in its sole discretion.

13.2 From the date on which the QF first becomes entitled to capacity payments under this Agreement through the remaining Term, the QF shall post an Operational Security Guaranty with the Company equal to $20.00 per KW of Committed Capacity to ensure timely performance by the QF of its obligations under this Agreement. The QF shall either: (i) pay the Company cash in the form of a certified check in an amount equal to the Operational Security Guaranty; or (ii) provide the Company an unconditional and irrevocable direct pay letter of credit or other promise to pay such amount upon failure of the QF to perform its obligations under this Agreement; provided that the entity issuing such promise, the form of the promise, and the means of securing payment all shall be acceptable to the Company in its sole discretion. Furthermore, if

option (ii) is selected, the Operational Security Guaranty shall be increased monthly as if it had accrued interest pursuant to section 13.3 hereof.

13.3 All Completion and Operational Security Guaranties paid in cash to the Company shall accrue interest at a rate equal to the thirty (30) day highest grade commercial paper rate as published in the Wall Street Journal on the first business day of each month. Such interest shall be compounded monthly.

13.4 If the Facility achieves Commercial In-Service Status on or before the Contract In-Service Date, the Company shall refund to the QF any cash Completion Security Guaranty and accrued interest within thirty (30) days thereafter and shall cancel any other form of Completion Security Guaranty which the Company has accepted in lieu of a cash deposit. If the Facility fails to achieve Commercial In-Service Status on or before the Contract In-Service Date for any reason, including Force Majeure Events, except as provided in section 4.2.2 hereof, then in addition to any other rights or obligations of the Parties, the QF shall immediately forfeit and the Company, in lieu of any other remedies except as provided in section 15.1.6 hereof, shall retain any cash Completion Security Guaranty and accrued interest, and any other form of Completion Security Guaranty which the Company has accepted in lieu of a cash deposit shall become immediately due and payable to the Company.

13.5 Upon conclusion of the Term of this Agreement, without early termination by either Party, the Company shall refund to the QF any cash Operational Security Guaranty and accrued interest within thirty (30) days thereafter and shall cancel any other form of Operational Security Guaranty which the Company has accepted in lieu of a cash deposit. Upon any earlier termination of this Agreement for any reason, including Force Majeure Events, but excluding an early termination by the QF permitted pursuant to this Agreement, then in addition to any other rights or obligation of the Parties, the QF shall immediately forfeit and the Company shall retain the Operational Security Guaranty and accrued interest, and any other form of Operational Security

Guaranty which the Company has accepted in lieu of a cash deposit shall become immediately due and payable to the Company.

ARTICLE XIV: REPRESENTATIONS, WARRANTIES AND COVENANTS

14.1 The QF makes the following additional representations, warranties and covenants as the basis for the benefits and obligations contained in this Agreement:

14.1.1 The QF represents and warrants that it is a corporation, partnership or other business entity duly organized, validly existing and in good standing under the laws of the State of Florida and is qualified to do business under the laws of the State of Florida.

14.1.2 The QF represents, covenants and warrants that, to the best of the QF's knowledge, throughout the Term of this Agreement the QF will be in compliance with, or will have acted in good faith and used its best efforts to be in compliance with, all laws, judicial and administrative orders, rules and regulations, with respect to the ownership and operation of the Facility, including but not limited to applicable certificates, licenses, permits and governmental approvals; environmental impact analyses, and, if applicable, the mitigation of environmental impacts.

14.1.3 The QF represents and warrants that it is not prohibited by any law or contract from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed pursuant to this Agreement.

14.1.4 The QF represents and warrants that there is no pending or threatened action or proceeding affecting the QF before any court, governmental agency or arbitrator that could reasonably be expected to affect materially and adversely the ability of the QF to perform its obligations hereunder, or which purports to affect the legality, validity or enforceability of this Agreement.

14.2 All representations and warranties made by the QF in or under this Agreement shall survive the execution and delivery of this Agreement and any action taken pursuant hereto.

ARTICLE XV: EVENTS OF DEFAULT: REMEDIES

15.1 PRE-OPERATIONAL EVENTS OF DEFAULT

Any one or more of the following events occurring before the Contract In-Service Date, except events caused by the Company, shall constitute a Pre-Operational Event of Default and shall give the Company the right to exercise, without limitation, the remedies specified under section 15.2 hereof:

15.1.1 The QF, without a prior assignment permitted pursuant to Article XXIII hereof, becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity.

15.1.2 Any representation or warranty furnished by the QF to the Company is false or misleading in any material respect when made and the QF fails to conform to said representation or warranty within sixty (60) days after a demand by the Company to do so.

15.1.3 Reserved

15.1.4 The Construction Commencement Date has not occurred on or before the date specified in Article IV hereof, as extended only pursuant to said Article IV.

15.1.5 The QF fails to diligently pursue construction of the Facility after the Construction Commencement Date.

15.1.6 The Facility fails to achieve Commercial In-Service Status on or before the Contract In-Service Date unless the QF notifies the Company on or before the Contract In-Service Date that it agrees to pay the Company in weekly installments in cash or certified check an amount equal to $0.15 per KW times the Committed Capacity specified in section 7.1 hereof for every day between the date that the Facility achieves Commercial In-Service Status and the Contract In-Service Date and the Facility subsequently achieves Commercial In-Service Status no later than ninety (90) days after the Contract In-Service Date.

15.1.7 The QF fails to comply with any other material terms and conditions of this Agreement and fails to conform to said term and condition within sixty (60) days after a demand by the Company to do so.

15.2 REMEDIES FOR PRE-OPERATIONAL EVENTS OF DEFAULT

For any Pre-Operational Event of Default specified under section 15.1 hereof, the Company may, in its sole discretion and without an election of one remedy to the exclusion of the other remedy, take any of the actions pursuant to sections 15.2.1 and 15.2.2 hereof; provided, however, that the Company shall first exercise the remedy pursuant to section 15.2.1 hereof if (i) the Construction Commencement Date has occurred on or before the date specified in Article IV hereof, as extended only pursuant to said Article IV; and (ii) the QF is not in arrears for any monies owed to the Company pursuant to this Agreement.

15.2.1 Renegotiate any applicable provisions of this Agreement with the QF when necessary to preserve its validity. If the Parties cannot agree within thirty (30) days from the date of the Pre-Operational Event of Default, the Company shall have the right to exercise the remedy pursuant to section 15.2.2 hereof.

15.2.2 Terminate this Agreement.

15.3 OPERATIONAL EVENTS OF DEFAULT

Any one or more of the following events except events caused by Force Majeure Events unless otherwise stated, occurring on or after the Contract In-Service Date shall constitute an Operational Event of Default by the QF and shall give the Company the right, without limitation, to exercise the remedies under section 15.4 hereof:

15.3.1 The Operational Security Guaranty required under Article XIII is not tendered on or before the applicable due date specified in the Article.

15.3.2 The QF fails upon request by the Company pursuant to section 7.6 hereof to re-demonstrate the Facility's Commercial In-Service Status to the satisfaction of the Company.

15.3.3 The QF fails for any reason, including Force Majeure Events, to qualify for capacity payments under Article VIII hereof for any consecutive twenty-four (24) month period.

15.3.4 The QF, without a prior assignment permitted pursuant to Article XXIII hereof, becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity.

15.3.5 The QF fails to perform or comply with any other material terms and conditions of this Agreement and fails to conform to said term and conditions within sixty (60) days after a demand by the Company to do so.

15.4 REMEDIES FOR OPERATIONAL EVENTS OF DEFAULT

For any Operational Event of Default specified under section 15.3 hereof, the Company may, without an election of one remedy to the exclusion of the other remedies, take any of the actions pursuant to sections 15.4.1, 15.4.2, and 15.4.3 hereof; provided, however, that the Company shall first exercise the remedy pursuant to section 15.4.1 hereof except for an Operational Event of Default pursuant to section 15.3.3 hereof.

15.4.1 Allow the QF a reasonable opportunity to cure the Operational Event of Default and suspend its capacity payment obligations upon written notice whereupon the QF shall be entitled only to energy payments calculated pursuant to section 9.1.1 hereof. Thereafter, if the Operational Event of Default is cured: (i) capacity payments shall resume and subsequent energy payments shall be paid pursuant to section 9.1.2 hereof; and (ii) the On-Peak Capacity Factor shall be calculated on the assumption that the first full month after the Operational Event of Default is cured is the first month that the On-Peak Capacity factor is calculated.

15.4.2 Terminate this Agreement.

15.4.3 Exercise all remedies available at law or in equity.

ARTICLE XVI: PERMITS

The QF hereby agrees to seek to obtain, at its sole expense, any and all governmental permits, certificates, or other authorization the QF is required to obtain as a prerequisite to engaging in the activities provided for in this Agreement. The Company hereby agrees, at the QF's expense, to seek to obtain any and all governmental permits, certificates, or other authorization the Company is required to obtain as a prerequisite to engaging in the activities provided for in this Agreement.

ARTICLE XVII: INDEMNIFICATION

The QF agrees to indemnify and save harmless the Company and its employees, officers, and directors against any and all liability, loss, damage, costs or expense which the Company, its employees, officers and directors may hereafter incur, suffer or be required to pay by reason of negligence on the part of the QF in performing its obligations pursuant to this Agreement or the QF's failure to abide by the provisions of this Agreement. The Company agrees to indemnify and save harmless the QF and its employees, officers, and directors against any and all liability, loss, damage, cost or expense which the QF, its employees, officers, and directors may hereafter incur, suffer, or be required to pay by reason of negligence on the part of the Company in performing its obligations pursuant to this Agreement or the Company's failure to abide by the provisions of this Agreement. The QF agrees to include the Company as an additional insured in any liability insurance policy or policies the QF obtains to protect the QF's interests with respect to the QF's indemnity and hold harmless assurance to the Company contained in Article XVII.

ARTICLE XVIII: EXCLUSION OF INCIDENTAL CONSEQUENTIAL AND INDIRECT DAMAGES

Neither Party shall be liable to the other for incidental, consequential or indirect damages, including, but not limited to, the cost of replacement capacity and energy (except as provided for in section 7.3 hereof), whether arising in contract, tort, or otherwise.

ARTICLE XIX: INSURANCE

19.1 In addition to other insurance carried by the QF in accordance with the Agreement, the QF shall deliver to the Company, at least fifteen (15) days prior to the commencement of any work on the Company's Interconnection Facilities, a certificate of insurance certifying the QF's coverage under a liability insurance policy issued by a reputable insurance company authorized to do business in the State of Florida naming the QF as a named insured and the Company as an additional named insured, which policy shall contain a broad form contractual endorsement specifically covering liabilities arising out of the interconnection with the Facility, or caused by the operation of the Facility or by the QF's failure to maintain the Facility in satisfactory and safe operating condition.

19.2 The insurance policy providing such coverage shall provide public liability insurance, including property damage, in an amount not less than $1,000,000 for each occurrence. The required insurance policy shall be endorsed with a provision requiring the insurance company to notify the Company at least thirty (30) days prior the effective date of any cancellation or material change in the policy.

19.3 The QF shall pay all premiums and other charges due on said insurance policy and shall keep said policy in force during the entire period of interconnection with the Company.

ARTICLE XX: REGULATORY CHANGES

20.1 The Parties agree that the Company's payment obligations under this Agreement are expressly conditioned upon the mutual commitments set forth in this Agreement and upon the Company's being fully reimbursed for all payments to the QF through the Fuel and Purchased Power Costs Recovery Clause or other authorized rates or charges. Notwithstanding any other provision of this Agreement, should the Company at any time during the Term of this Agreement be denied the FPSC's or the FERC's authorization, or the authorization of any other regulatory bodies which in the future may have jurisdiction over the Company's rates and charges, to recover from its customers all payments required to be made to the QF under the terms of this Agreement, payments to the QF from the Company shall be reduced accordingly. Neither Party shall initiate any action to deny recovery of payments under this Agreement and each Party shall participate in defending all terms and conditions of this Agreement, including, without limitation, the payment levels specified in this Agreement. Any amounts initially recovered by the Company from its ratepayers but for which recovery is subsequently disallowed by the FPSC or the FERC and charged back to the Company may be off-set or credited against subsequent payments made by the Company for purchases from the QF, or alternatively, shall be repaid by the QF. If any disallowance is subsequently reversed, the Company shall repay the QF such disallowed payments with interest at the rate specified in section 13.3 hereof to the extent such payments and interest are recovered by the Company.

20.2 If the QF's payments are reduced pursuant to section 20.1 hereof, the QF may terminate this Agreement upon thirty (30) days notice; provided that the QF gives the Company written notice of said termination within eighteen (18) months after the effective date of such reduction in the QF's payments.

ARTICLE XXI: FORCE MAJEURE

21.1 If either Party because of Force Majeure Event is rendered wholly or partly unable to perform its obligations under this Agreement, other than the obligation of that Party to make payments of money, that Party shall, except as otherwise provided in this Agreement, be excused from whatever performance is affected by the Force Majeure Event to the extent so affected, provided that:

21.1.1 The non-performing Party, as soon as possible after it becomes aware of its inability to perform, shall declare a Force Majeure Event and give the other Party written notice of the particulars of the occurrence(s), including without limitation, the nature, cause, and date and time of commencement of the occurrence(s), the anticipated scope and duration of any delay, and any date(s) that may be affected thereby.

21.1.2 The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure Event.

21.1.3 Obligations of either Party which arose before the occurrence causing the suspension of performance are not excused as a result of the occurrence.

21.1.4 The non-performing Party uses its best efforts to remedy its inability to perform with all reasonable dispatch; provided, however, that nothing contained herein shall require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the affected Party, are contrary to its interests. It is understood and agreed that the settlement of strikes, walkouts,

lockouts or other labor disputes shall be entirely within the discretion of the affected Party.

21.1.5 When the non-performing Party is able to resume performance of its obligations under this Agreement, that Party shall so notify the other Party in writing.

21.2 Unless and until the QF temporarily redesignates the Committed Capacity pursuant to section 7.4 hereof, no capacity payment obligation pursuant to Article VII hereof shall accrue during any period of a declared Force Majeure Event pursuant to section 21.1.1 through 21.1.5. During any such period, the Company will pay for such energy as may be received and accepted pursuant to section 9.1.1 hereof.

21.3 If the QF temporarily or permanently redesignates the Committed Capacity pursuant to section 7.4 hereof, then capacity payment obligations shall thereafter resume at the applicable redesignated level and the Company will resume energy payments pursuant to section 9.1.2 hereof.

ARTICLE XXII: FACILITY RESPONSIBILITY AND ACCESS

22.1 Representatives of the Company shall at all reasonable times have access to the Facility and to property owned or controlled by the QF for the purpose of inspecting, testing, and obtaining other technical information deemed necessary by the Company in connection with this Agreement. Any inspections or testing by the Company shall not relieve the QF of its obligation to maintain the Facility.

22.2 In no event shall any Company statement, representation, or lack thereof, either express or implied, relieve the QF of its exclusive responsibility for the Facility. Any Company inspection of property or equipment owned or controlled by the QF or any Company review of or consent to the QF's plans, shall not be construed as

endorsing the design, fitness or operation of the Facility equipment nor as a warranty or guarantee.

22.3 The QF shall reactivate the Facility at its own expense if the Facility is rendered inoperable due to actions of the QF or its agents, or a Force Majeure Event. The Company shall reactivate the Company's Interconnection Facilities at its own expense if the same are rendered inoperable due to actions of the Company or its agents, or a Force Majeure Event.

ARTICLE XXIII: SUCCESSORS AND ASSIGNS

Neither Party shall have the right to assign its obligations, benefits, and duties without the written consent of the other Party, which shall not be unreasonably withheld or delayed.

ARTICLE XXIV: DISCLAIMER

In executing this Agreement, the Company 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 the QF or any assignee of this Agreement, nor does it create any third party beneficiary rights. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, or joint venture between the Parties. No payment by the Company to the QF for energy or capacity shall be construed as payment by the Company for the acquisition of any ownership or property interest in the Facility.

ARTICLE XXV: WAIVERS

The failure of either Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a general waiver of any such provision or the relinquishment of any such right, but the same shall continue and remain in full force and effect, except with respect to the particular instance or instances.

ARTICLE XXVI: COMPLETE AGREEMENT

The terms and provisions contained in this Agreement constitute the entire agreement between the Parties and shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties with respect to the Facility and this Agreement.

ARTICLE XXVII: COUNTERPARTS

This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

28.1 Any non-emergency or operational notice, request, consent, payment or other communication made pursuant to this Agreement to be given by one Party to the other Party shall be in writing, either personally delivered or mailed to the representative of said other Party designated in this section, and shall be deemed to be given when received. Notices and other communications by the Company to the QF shall be addressed to:

E. Elliott White
Lake Cogen Limited
PO Box 2562
Tampa, Fla. 33601

[illegible] Trostle
[illegible]
CA
714 530-4312

Notices to the Company shall be addressed to:

Manager, Cogeneration Contracts & Administration
Florida Power Corporation
P. O. Box 14042
St. Petersburg, FL 33733

28.2 Communications made for emergency or operational reasons may be made to the following persons and shall thereafter be confirmed promptly in writing.

To The Company: System Dispatcher on Duty
Title: System Dispatcher
Telephone: (813)866-5888
Telecopier: (813)384-7865

To The QF: Name (To be provided later)
Title: ____________________
Telephone: ( ) ____________________
Telecopier: ( ) ____________________

28.3 Either Party may change its representatives in sections 28.1 or 28.2 by prior written notice to the other Party.

28.4 The Parties' representatives designated above shall have full authority to act for their respective principals in all technical matters relating to the performance of this Agreement. However, they shall not have the authority to amend, modify, or waive any provision of this Agreement.

ARTICLE XXIX: SECTION HEADINGS FOR CONVENIENCE

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

ARTICLE XXX: GOVERNING LAW

The interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF, the QF and the Company have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written.

The Qualifying Facility:

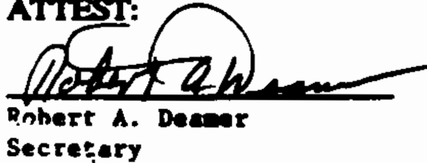
By: PEOPLES COGENERATION COMPANY,
a General Partner

By:
John A. Brabson, Jr.

Title: President

Date: March 13, 1991

ATTEST:


Robert A. Deamer
Secretary

The Company:

By:
M. H. Phillips
Executive Vice President

Date:

ATTEST:

APPENDIX A

INTERCONNECTION SCHEDULING AND COST RESPONSIBILITY

1.0 Purpose.

This appendix provides the procedures for the scheduling of construction for the Company's Interconnection Facilities as well as the cost responsibility of the QF for the payment of Interconnection Costs. This appendix applies to all QF's, whether or not their Facility will be directly interconnected with the Company's system. All requirements contained herein shall apply in addition to and not in lieu of the provisions of the Agreement.

2.0 Submission of Plans and Development of Interconnection Schedules and Cost Estimates.

2.1 No later than sixty (60) days after the Contract Approval Date, the QF shall specify the date it desires the Company's Interconnection Facilities to be available for receipt of the electric energy and shall provide a preliminary written description of the Facility, including without limitation, a one-line diagram, and anticipated Facility site data. Based upon the information provided, the Company shall develop preliminary written Interconnection Costs and scheduling estimates for the Company's Interconnection Facilities within sixty (60) days after the information is provided. The schedule developed hereunder will indicate when the QF's final electrical plans must be submitted to the Company pursuant to section 2.2 hereof.

2.2 The QF shall submit the Facility's final electrical plans and all revisions to the information previously submitted under section 2.1 hereof to the Company no later than the date specified under section 2.1 hereof, unless such date is modified in the Company's reasonable discretion. Based upon the information provided and within sixty (60) days after the information is provided, the Company shall update its written Interconnection Costs and schedule estimates, provide the estimated time period required for construction of the Company's Interconnection Facilities, and specify the date by which the Company must receive notice from the QF to initiate construction, which date shall, to the extent practical, be consistent with the QF's schedule for delivery of energy into the Company's system. The final electrical plans shall include the following information, unless all or a portion of such information is waived by the Company in its discretion:

a. Physical layout drawings, including dimensions;

b. All associated equipment specifications and characteristics including technical parameters, ratings, basic impulse levels, electrical main one-line diagrams, schematic diagrams, system protections, frequency, voltage, current and interconnection distance;

c. Functional and logic diagrams, control and meter diagrams, conductor sizes and length, and any other relevant data which might be necessary to understand the Facility's proposed system and to be able to make a coordinated system;

d. Power requirements in watts and vars;

e. Expected radio-noise, harmonic generation and telephone interference factor;

f. Synchronizing methods; and

g. Facility operating/instruction manuals.

h. Reserved.

2.3 Any subsequent change in the final electrical plans shall be submitted to the Company and it is understood and agreed that any such changes may affect the Company's schedules and Interconnection Costs as previously estimated.

2.4 The QF shall pay the actual costs incurred by the Company to develop all estimates pursuant to section 2.1 and 2.2 hereof and to evaluate any changes proposed by the QF under section 2.3 hereof, as such costs are billed pursuant to Article XII of the Agreement. At the Company's option, advance payment for these cost estimates may be required, in which event the Company will issue an adjusted bill reflecting actual costs following completion of the cost estimates.

2.5 The Parties agree that any cost or scheduling estimates provided by the Company hereunder shall be prepared in good faith but shall not be binding. The Company may modify such schedules as necessary to accommodate contingencies that affect the Company's ability to initiate or complete the Company's Interconnection Facilities and actual costs will be used as the basis for all final charges hereunder.

3.0 Payment Obligations for Interconnection Costs.

3.1 The Company shall have no obligation to initiate construction of the Company's Interconnection Facilities prior to a written notice from the QF agreeing to the Company's interconnection design requirements and notifying the Company to initiate its activities to construct the Company's Interconnection Facilities; provided, however, that such notice shall be received not later than the date specified by the Company under section 2.2 hereof. The QF shall be liable for and agrees to pay all Interconnection Costs incurred by the Company on or after the specified date for initiation of construction.

3.2 The QF agrees to pay all of the Company's actual Interconnection Costs as such costs are incurred and billed in accordance with Article XII of the Agreement. Such amounts shall be billed pursuant to section 3.2.1 if the QF elects the payment option permitted by FPSC Rule 25-17.087(4). Otherwise the QF shall be billed pursuant to section 3.2.2.

3.2.1 Upon a showing of credit worthiness, the QF shall have the option of making monthly installment payments for Interconnection Costs over a period no longer than thirty six (36) months. The period selected is ______ months. Principal payments will be based on the estimated Interconnection Costs less the Interconnection Costs Offset, divided by the repayment period in months to determine the monthly principal payment. Payments will be invoiced in the first month following first incurrence of Interconnection Costs by the Company. Invoices to the QF will include principal payments plus interest on the unpaid balance, if any, calculated at a rate equal to the thirty (30) day highest grade commercial paper rate as published in the Wall Street Journal on the first business day of each month. The final payment or payments will be adjusted to cause the sum of principal payments to equal the actual Interconnection Costs.

3.2.2 When Interconnection Costs are incurred by the Company, such costs will be billed to the QF to the extent that they exceed the Interconnection Costs Offset.

3.3 If the QF notifies the Company in writing to interrupt or cease interconnection work at any time and for any reason, the QF shall nonetheless be obligated to pay the Company for all costs incurred in connection with the Company's Interconnection Facilities through the date of such notification and for all additional costs for which the Company is responsible pursuant to binding contracts with third parties.

4.0 Payment Obligations for Operation, Maintenance and Repair of the Company's Interconnection Facilities

The QF also agrees to pay monthly through the Term of the Agreement for all costs associated with the operation, maintenance and repair of the Company's Interconnection Facilities, based on a percentage of the total Interconnection Costs net of the Interconnection Costs Offset, as set forth in Appendix C.

APPENDIX B

PARALLEL OPERATING PROCEDURES

1.0 Purpose

This appendix provides general operating, testing, and inspection procedures intended to promote the safe parallel operation of the Facility with the Company's system. All requirements contained herein shall apply in addition to and not in lieu of the provisions of the Agreement.

2.0 Schematic Diagram

Exhibit A-1-1, attached hereto and made a part hereof, is a schematic diagram showing the major circuit components connecting the Facility and the Company's [substation] and showing the Point of Delivery and the Point of Metering and/or Point of Ownership, if different. All switch number designations initially left blank on Exhibit B-1 will be inserted by the Company on or before the date on which the Facility first operates in parallel with the Company's system.

3.0 Operating Standards

3.1 The QF and the Company will independently provide for the safe operation of their respective facilities, including periods during which the other Party's facilities are unexpectedly energized or de-energized.

3.2 The QF shall reduce, curtail, or interrupt electrical generation or take other appropriate action for so long as it is reasonably necessary, which in the judgment of the QF or the Company may be necessary to operate and maintain a part of either Party's system, to address, if applicable, an emergency on either Party's system.

3.3 As provided in the Agreement, the QF shall not operate the Facility's electric generation equipment in parallel with the Company's system without prior written consent of the Company. Such consent shall not be given until the QF has satisfied all criteria under the Agreement and has:

(i) submitted to and received consent from the Company of its as-built electrical specifications;

(ii) demonstrated to the Company's satisfaction that the Facility is in compliance with the insurance requirements of the Agreement; and

(iii) demonstrated to the Company's satisfaction that the Facility is in compliance with all regulations, rules, orders, or decisions of any governmental or regulatory authority having jurisdiction over the Facility's generating equipment or the operation of such equipment.

3.4 After any approved Facility modifications are completed, the QF shall not resume parallel operation with the Company's system until the QF has demonstrated that it is in compliance with all the requirements of section 4.2 hereof.

3.5 The QF shall be responsible for coordination and synchronization of the Facility's equipment with the Company's electrical system, and assumes all responsibility for damage that may occur from improper coordination or synchronization of the generator with the utility's system.

3.6 The Company shall have the right to open and lock, with a Company padlock, manual disconnect switch numbers(s)__________ and isolate the Facility's generation system without prior notice to the QF. To the extend practicable, however, prior notice shall be given. Any of the following conditions shall be cause for disconnection:

1. Company system emergencies and/or maintenance repair and construction requirements;
2. hazardous conditions existing on the Facility's generating or protective equipment as determined by the Company;
3. adverse effects of the Facility's generation to the Company's other electric consumers and/or system as determined by the Company;
4. failure of the QF to maintain any required insurance; or
5. failure of the QF to comply with any existing or future regulations, rules, orders or decisions of any governmental or regulatory authority having jurisdiction over the Facility's electric generating equipment or the operation of such equipment.

3.7 The Facility's electric generation equipment shall not be operated in parallel with the Company's system when auxiliary power is being provided from a source other than the Facility's electric generation equipment.

3.8 Neither Party shall operate switching devices owned by the other Party, except that the Company may operate the manual disconnect switch number(s)_______ owned by the QF pursuant to section 3.6 hereof.

3.9 Should one Party desire to change the operating position of a switching device owned by the other Party, the following procedures shall be followed:

(i) The Party requesting the switching change shall orally agree with an authorized representative of the other Party regarding which switch or switches are to be operated, the requested position of each switching device, and when each switch is to be operated.

(ii) The Party performing the requested switching shall notify the requesting Party when the requested switching change has been completed.

(iii) Neither Party shall rely solely on the other party's switching device to provide electrical isolation necessary for personnel safety. Each Party will perform work on its side of the Point of Ownership as if its facilities are energized or test for voltage and install grounds prior to beginning work.

(iv) Each Party shall be responsible for returning its facilities to approved operating conditions, including removal of grounds, prior to the Company authorizing the restoration of parallel operation.

(v) The Company shall install one or more red tags similar to the red tag shown in Exhibit B-2 attached hereto and made a part hereof, on all open switches. Only Company personnel on the Company's switching and tagging list shall remove and/or close any switch bearing a Company red tag under any circumstances.

3.10 Should any essential protective equipment fail or be removed from service for maintenance or construction requirements, the Facility's electric generation equipment shall be disconnected from the Company's system. To accomplish this disconnection, the QF shall either (i) open the generator breaker number(s) _____; or (ii) open the manual disconnect switch number(s) _____.

3.10.1 If the QF elects option (i), the breaker assembly shall be opened and drawn out by QF personnel. As promptly as practicable, Company personnel shall install a Company padlock and a red tag on the breaker enclosure door.

3.10.2 If the QF elects option (ii), the switch shall be opened by QF personnel or by Company personnel and, as promptly as practicable, Company personnel will install a Company padlock and a red tag.

4.0 Inspection and Testing

4.1 The inspection and testing of all electrical relays governing the operation of the generator's circuit breaker shall be performed in accordance with manufacturer's recommendations, but in no case less than once every 12 months. This inspection and testing shall include, but not be limited to, the following:

(i) electrical checks on all relays and verification of settings electrically;

(ii) cleaning of all contacts;

(iii) complete testing of tripping mechanisms for correct operating sequence and proper time intervals; and

(iv) visual inspection of the general condition of the relays.

4.2 In the event that any essential relay or protective equipment is found to be inoperative or in need of repair, the QF shall notify the Company of the problem and cease parallel operation of the generator until repairs or replacements have been

made. The QF shall be responsible for maintaining records of all inspections and repairs and shall make said records available to the Company upon request.

4.3 The Company shall have the right to operate and test any of the Facility's protective equipment to assure accuracy and proper operation. This testing shall not relieve the QF of the responsibility to assure proper operation of its equipment and to perform routine maintenance and testing.

5.0 Notification

5.1 Communications made for emergency or operational reasons may be made to the following persons and shall thereafter be confirmed promptly in writing:

To The Company: System Dispatcher on Duty
Title: System Dispatcher
Telephone: (813)866-5888
Telecopier: (813)384-7865

To The QF: Name ____________________
Title: ____________________
Telephone: ____________________
Telecopier: ____________________

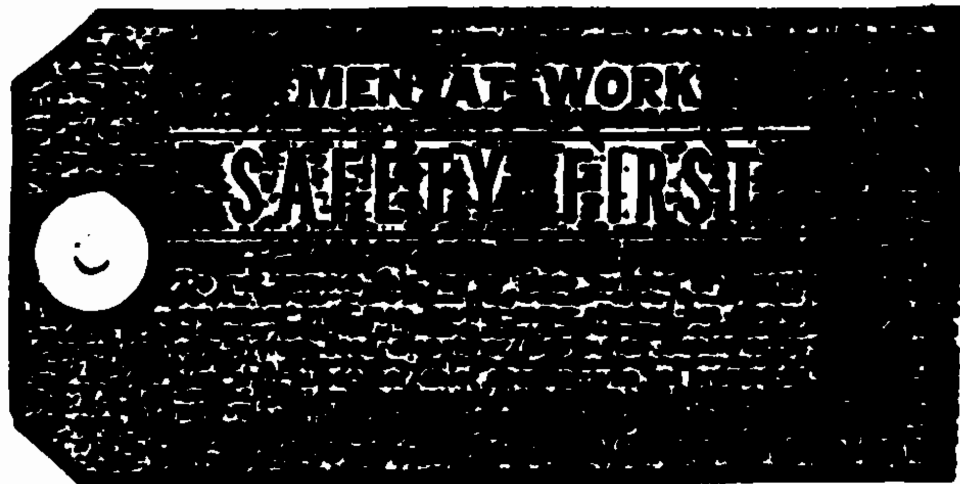
5.2 Each Party shall provide as much notification as practicable to the other Party regarding planned outages of equipment that may affect the other Party's operation.

EXHIBIT B-1

Exhibit B-1 will be unique for each Facility and must be completed prior to parallel operation of the Facility with the Company.

EXHIBIT B-2

A switch or switch point (i.e., elbow, open jumpers, etc.) with a red tag attached is open and shall not be closed under any circumstances. After a switch has been red tagged, that switch cannot be closed until the red tag is removed. Red tags can only be removed when authorized by a specific written order.



APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY

TABLE OF CONTENTS

SCHEDULE 1 General Information for 1991 Combustion Turbine Unit

SCHEDULE 2 Rates for Avoided 1991 Combustion Turbine Unit

SCHEDULE 3 General Information for 1991 Pulverized Coal Unit

SCHEDULE 4 Rates for Avoided 1991 Pulverized Coal Unit

SCHEDULE 5 Capacity Payment Adjustment for On-Peak Capacity Factor

SCHEDULE 6 Performance Adjustment

SCHEDULE 7 Charges to Qualifying Facility

SCHEDULE 8 Delivery Voltage Adjustment

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 1

GENERAL INFORMATION FOR 1991 COMBUSTION TURBINE UNIT

GENERAL
YEAR OF AVOIDED UNIT = 1991
AVOIDED UNIT FUEL REFERENCE PLANT = BARTOW CT UNITS

OPERATING DATA
AVOIDED UNIT VARIABLE O&M COSTS IN 1/90 $'s = $1.74/MWH
SYSTEM VARIABLE O&M COSTS IN 1/90 $'s = $0.592/MWH
ANNUAL ESCALATION RATE OF O&M COSTS = 5.10%
MINIMUM ON-PEAK CAPACITY FACTOR = 90.0%
AVOIDED UNIT HEAT RATE = 12,480 BTU/KWH
TYPE OF FUEL = DISTILLATE

ON-PEAK HOURS
(1) FOR THE CALENDAR MONTHS OF NOVEMBER THROUGH MARCH,
ALL DAYS: 6:00 A.M. TO 12:00 NOON, AND
5:00 P.M. TO 10:00 P.M.
(2) FOR THE CALENDAR MONTHS OF APRIL THROUGH OCTOBER,
ALL DAYS: 11:00 A.M. TO 10:00 P.M.

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 2

Payments for Avoided 1991 Combustion Turbine Unit

Fuel Multiplier = 1.0

(1)	(2)	(3)	(4)	(5)	(6)
	CAPACITY PAYMENT - $/KW/MONTH		ENERGY PAYMENT - $/MWH (c) (ESTIMATED)		
CALENDAR YEAR	NORMAL PAYMENT RATE	ACCELERATED PAYMENT RATE (b)	FUEL	O&M	TOTAL
1991	3.96		29.78	0.76	30.54
1992	4.17		31.62	0.80	32.42
1993	4.37		34.28	0.84	35.12
1994	4.59		39.75	0.88	40.63
1995	4.84		44.64	0.93	45.57
1996	5.08		47.98	0.98	48.96
1997	5.33		52.63	1.03	53.66
1998	5.61		55.82	1.08	56.90
1999	5.90		53.70	1.13	54.83
2000	6.20		58.78	1.19	59.97
2001	6.51		56.42	1.25	57.67
2002	6.84		62.36	1.32	63.68
2003	7.19		66.46	1.38	67.84
2004	7.56		72.25	1.45	73.70
2005	7.94		79.70	1.53	81.23
2006	8.34		83.76	1.61	85.37
2007	8.77		88.04	1.69	89.73
2008	9.22		92.53	1.77	94.30
2009	9.70		97.25	1.86	99.11
2010	10.19		102.20	1.96	104.16
2011	10.71		107.42	2.06	109.48
2012	11.25		112.90	2.16	115.06
2013	11.83		118.65	2.27	120.92
2014	12.43		124.70	2.39	127.09
2015	13.07		131.06	2.51	133.57
2016	13.73		137.75	2.64	140.39
2017	14.43		144.77	2.78	147.55
2018	15.17		152.16	2.92	155.08
2019	15.94		159.92	3.07	162.99
2020	16.76		168.07	3.22	171.29
2021	17.61		176.64	3.38	180.02
2022	18.51		185.65	3.56	189.21
2023	19.46(a)		195.12	3.74	198.86

NOTES:

(a) If the Term of the Agreement is extended beyond 2023 pursuant to Article IV hereof, the normal payment rate schedule shall be escalated at 5.1% per year.

(b) The QF may structure an accelerated payment rate schedule that has the same or lower net present value over the Term as the normal payment rate schedule using the discount rate specified in section 8.5.3 hereof and which assumes the Contract In-Service Date specified as of the Execution Date. At the request of the QF prior to the commencement of capacity payments or if the Contract In-Service Date differs from the date specified as of the Execution Date, the accelerated payment rate schedule in this schedule will be recalculated so that the ratio of the net present value as of January 1, 1991, of the recalculated schedule to the normal payment schedule over the Term is not increased.

(c) Information provided is estimated and excludes the Delivery Voltage Adjustment.

APPENDIX C

RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 3

GENERAL INFORMATION FOR 1991 PULVERIZED COAL UNIT

GENERAL

YEAR OF AVOIDED UNIT = 1991

AVOIDED UNIT FUEL REFERENCE PLANT = CRYSTAL RIVER UNITS 1&2

OPERATING DATA

AVOIDED UNIT VARIABLE O&M COSTS IN 1/90 $'s = $4.36/MWH (Option A only)

ANNUAL ESCALATION RATE OF O&M COSTS = 5.10%

MINIMUM ON-PEAK CAPACITY FACTOR = 83.0%

AVOIDED UNIT HEAT RATE = 9,830 BTU/KWH

TYPE OF FUEL = COAL WITH 1.15% SULFUR BY WEIGHT MAXIMUM AT 11,000 BTU/LB., ADJUSTABLE IN DIRECT PROPORTION TO THE BTU/LB. OF COAL

ON-PEAK HOURS

(1) FOR THE CALENDAR MONTHS OF NOVEMBER THROUGH MARCH,
ALL DAYS: 6:00 A.M. TO 12:00 NOON, AND
5:00 P.M. TO 10:00 P.M.

(2) FOR THE CALENDAR MONTHS OF APRIL THROUGH OCTOBER,
ALL DAYS: 11:00 A.M. TO 10:00 P.M.

APPENDIX C

RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 4

Payments for Avoided 1991 Pulverized Coal Unit

Option A

Fuel Multiplier = 1.0

(1)	(2)	(3)	(4)	(5)	(6)
	CAPACITY PAYMENT - $/KW/MONTH		ENERGY PAYMENT - $/MWH (c) (ESTIMATED)		
CALENDAR YEAR	NORMAL PAYMENT RATE	ACCELERATED PAYMENT RATE (b)	FUEL	O&M	TOTAL
1991	10.92		21.07	4.70	25.77
1992	11.48		21.94	4.94	26.88
1993	12.07	12.07	22.86	5.19	28.05
1994	12.68	12.68	23.87	5.45	29.32
1995	13.32	13.32	25.09	5.73	30.82
1996	14.00	14.00	26.37	6.02	32.39
1997	14.72	14.72	27.71	6.33	34.04
1998	15.46	15.32	29.13	6.65	35.78
1999	16.25	15.93	30.61	6.99	37.60
2000	17.08	16.74	32.17	7.35	39.52
2001	17.95	17.60	33.81	7.73	41.54
2002	18.87	18.49	35.54	8.12	43.66
2003	19.83	19.33	37.35	8.53	45.88
2004	20.85	20.22	39.26	8.97	48.23
2005	21.91	21.25	41.26	9.43	50.69
2006	23.02	22.34	43.36	9.91	53.27
2007	24.20	23.47	45.57	10.41	55.98
2008	25.43	24.54	47.90	10.94	58.84
2009	26.74	25.66	50.34	11.50	61.84
2010	28.09	26.97	52.91	12.09	65.00
2011	29.53	28.35	55.61	12.70	68.31
2012	31.04	29.79	58.44	13.35	71.79
2013	32.61	31.32	61.42	14.03	75.45
2014	34.28		64.55	14.75	79.30
2015	36.03		67.85	15.50	83.35
2016	37.86		71.31	16.29	87.60
2017	39.80		74.94	17.12	92.06
2018	41.82		78.77	18.00	96.77
2019	43.96		82.78	18.91	101.69
2020	46.20		87.01	19.88	106.89
2021	48.56		91.45	20.89	112.34
2022	51.03		96.11	21.96	118.07
2023	53.64(a)		101.11	23.08	124.19

NOTES:

(a) If the Term of the Agreement is extended beyond 2023 pursuant to Article IV hereof, the normal payment rate schedule shall be escalated at 5.1% per year.

(b) The QF may structure an accelerated payment rate schedule that has the same or lower net present value over the Term as the normal payment rate schedule using the discount rate specified in section 8.5.3 hereof and which assumes the Contract In-Service Date specified as of the Execution Date. At the request of the QF prior to the commencement of capacity payments or if the Contract In-Service Date differs from the date specified as of the Execution Date, the accelerated payment rate schedule in this schedule will be recalculated so that the ratio of the net present value as of January 1, 1991, of the recalculated schedule to the normal payment schedule over the Term is not increased.

(c) Information provided is estimated and excludes the Delivery Voltage Adjustment.

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 4

Payments for Avoided 1991 Pulverized Coal Unit

Option B

Fuel Multiplier = 1.0

(1)	(2)	(3)	(4)
	CAPACITY PAYMENT - $/KW/MONTH		ENERGY PAYMENT - $/MWH (c) (ESTIMATED)
CALENDAR YEAR	NORMAL PAYMENT RATE	ACCELERATED PAYMENT RATE (b)	FUEL
1991	13.77		21.07
1992	14.47		21.94
1993	15.21		22.86
1994	15.98		23.87
1995	16.80		25.09
1996	17.65		26.37
1997	18.55		27.71
1998	19.49		29.13
1999	20.49		30.61
2000	21.54		32.17
2001	22.63		33.81
2002	23.79		35.54
2003	25.00		37.35
2004	26.28		39.26
2005	27.62		41.26
2006	29.02		43.36
2007	30.51		45.57
2008	32.07		47.90
2009	33.71		50.34
2010	35.42		52.91
2011	37.23		55.61
2012	39.13		58.44
2013	41.11		61.42
2014	43.22		64.55
2015	45.42		67.85
2016	47.73		71.31
2017	50.17		74.94
2018	52.73		78.77
2019	55.42		82.78
2020	58.25		87.01
2021	61.22		91.43
2022	64.33		96.11
2023	67.62(a)		101.01

NOTES:

(a) If the Term of the Agreement is extended beyond 2023 pursuant to Article IV hereof, the normal payment rate schedule shall be escalated at 5.1% per year.

(b) The QF may structure an accelerated payment rate schedule that has the same or lower net present value over the Term as the normal payment rate schedule using the discount rate specified in section 8.5.3 hereof and which assumes the Contract In-Service Date specified as of the Execution Date. At the request of the QF prior to the commencement of capacity payments or if the Contract In-Service Date differs from the date specified as of the Execution Date, the accelerated payment rate schedule in this schedule will be recalculated so that the ratio of the net present value as of January 1, 1991, of the recalculated schedule to the normal payment schedule over the Term is not increased.

(c) Information provided is estimated and excludes the Delivery Voltage Adjustment.

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 4

Payments for Avoided 1991 Pulverized Coal Unit

Option C

Fuel Multiplier = 0.8

(1)	(2)	(3)	(4)
	CAPACITY PAYMENT - $/KW/MONTH		ENERGY PAYMENT - $/MWH (c)
CALENDAR YEAR	NORMAL PAYMENT RATE	ACCELERATED PAYMENT RATE (b)	(ESTIMATED)
1991	16.37		16.86
1992	17.18		17.55
1993	18.06		18.29
1994	18.93		19.10
1995	19.90		20.07
1996	20.91		21.10
1997	21.98		22.17
1998	23.09		23.30
1999	24.27		24.49
2000	25.52		25.74
2001	26.81		27.05
2002	28.18		28.43
2003	29.62		29.88
2004	31.13		31.41
2005	32.72		33.01
2006	34.38		34.69
2007	36.14		36.46
2008	37.99		38.32
2009	39.93		40.27
2010	41.96		42.33
2011	44.10		44.49
2012	46.35		46.75
2013	48.70		49.14
2014	51.20		51.64
2015	53.81		54.28
2016	56.54		57.05
2017	59.43		59.95
2018	62.47		63.02
2019	65.65		66.22
2020	69.00		69.61
2021	72.52		73.16
2022	76.21		76.89
2023	80.11(a)		80.81

NOTES:

(a) If the Term of the Agreement is extended beyond 2023 pursuant to Article IV hereof, the normal payment rate schedule shall be escalated at 5.1% per year.

(b) The QF may structure an accelerated payment rate schedule that has the same or lower net present value over the Term as the normal payment rate schedule using the discount rate specified in section 8.3.3 hereof and which assumes the Contract In-Service Date specified as of the Execution Date. At the request of the QF prior to the commencement of capacity payments or if the Contract In-Service Date differs from the date specified as of the Execution Date, the accelerated payment rate schedule in this schedule will be recalculated so the ratio of the net present value as of January 1, 1991, of the recalculated schedule to the normal payment schedule over the Term is not increased.

(c) Information provided is estimated and excludes the Delivery Voltage Adjustment.

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 5
Capacity Payment Adjustment for On-Peak Capacity Factor

O.P.C.F.	CAPACITY PAYMENT ADJUSTMENT MULTIPLYING FACTOR
Greater than or Equal to the Committed O.P.C.F.	1.0
From 50.0% to the Committed O.P.C.F.	$\left[\frac{\text{O.P.C.F.}}{\text{Committed O.P.C.F.}}\right]^{1.5}$
Below 50.0%	0

NOTE: O.P.C.F. = On-Peak Capacity Factor

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 6
Performance Adjustment

The Performance Adjustment provision of Article IX in this Agreement shall be calculated as follows each month after the Contract In-Service Date for all hours in the month:

$$\sum_{\text{for } i = \text{first hour}}^{\text{last hour}} PERADJ_i = [KWH_i - (CC \times 1.0 \text{ hr.} \times CF/100)] \times (EP1_i - EP2_i)$$

Where:

$PERADJ_i$ = the Performance Adjustment for hour i.

KWH_i = the hourly energy delivered to the Company by the QF during hour i.

CC = the Committed Capacity in KW.

CF = If the On-Peak Capacity Factor (%) is 50.0% or greater, then CF equals the lesser of (a) the Committed On-Peak Capacity Factor (%) or (b) the On-Peak Capacity Factor (%); if the On-Peak Capacity Factor is less than 50.0%, then CF equals zero.

$EP1_i$ = the As-Available Energy Cost in \$/KWH for hour i.

$EP2_i$ = the Firm Energy Cost in \$/KWH for hour i.

Note:

The Performance Adjustment shall not apply to any hour in which the following condition occurs:

(a) the energy payment is determined on the basis of the of As-Available Energy Cost;

(b) the Company cannot perform its obligation to receive all energy which the QF has made available for sale at the Point of Delivery;

(c) the Firm Energy Cost exceeds the As-Available Energy Cost.

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 7
Charges to Qualifying Facility

Customer Charges:

The Qualifying Facility shall be billed monthly for the costs of meter reading, billing, and other appropriate administrative costs. The charge shall be set equal to the stated Customer Charge of the Company's applicable rate schedule for service to the Qualifying Facility load as a non-generating customer of the Company.

Operation, Maintenance, and Repair Charges:

The Qualifying Facility shall be billed monthly for the costs associated with the operation, maintenance, and repair of the interconnection. These include (a) the Company's inspections of the interconnection and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the Qualifying Facility if no sales to the Company were involved.

In lieu of payments for actual charges, the Qualifying Facility shall pay a monthly charge equal to 0.50% of the Interconnection Costs less the Interconnection Costs Offset. This monthly rate shall be adjusted periodically to the same rate applicable to standard offer contacts pursuant to the rules in Appendix E.

APPENDIX C
RATES FOR PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY

SCHEDULE 8
Delivery Voltage Adjustment

The QF's energy payment will be multiplied by a Delivery Voltage Adjustment whose value will depend upon (i) the delivery voltage at the Point of Delivery and (ii) the methodology approved by the FPSC to determine the adjustment for standard offer contracts pursuant to the rules in Appendix E.

APPENDIX D

RESERVED

APPENDIX E
FPSC RULES 25-17.080 THROUGH 25-17.091

PART III

UTILITIES' OBLIGATIONS WITH REGARD TO COGENERATORS AND SMALL POWER PRODUCERS

25-17.080 Definitions and Qualifying Criteria
25-17.081 Reserved
25-17.082 The Utility's Obligation to Purchase
25-17.0825 As-Available Energy
25-17.083 Firm Energy and Capacity (Repealed)
25-17.0831 Contracts (Repealed)
25-17.0832 Firm Capacity and Energy Contracts
25-17.0833 Planning Hearings
25-17.0834 Settlement of Disputes in Contract Negotiations
25-17.0835 Wheeling (Repealed)
25-17.084 The Utility's Obligation to Sell
25-17.085 Reserved
25-17.086 Periods During Which Purchases Are Not Required
25-17.087 Interconnection and Standards
25-17.088 Transmission Service for Qualifying Facilities (Repealed)
25-17.0882 Transmission Service Not Required for Self-Service (Repealed)
25-17.0883 Conditions Requiring Transmission Service for Self-service
25-17.089 Transmission Service for Qualifying Facilities
25-17.090 Reserved
25-17.091 Governmental Solid Waste Energy and Capacity

25-17.080 Definitions and Qualifying Criteria.

(1) For the purpose of these rules the Commission adopts the Federal Energy Regulatory Commission Rules 292.101 through 292.207, effective March 20, 1980, regarding definitions and criteria that a small power producer or cogenerator must meet to achieve the status of a qualifying facility. Small power producers and cogenerators which fail to meet the FERC criteria for achieving qualifying facility status but otherwise meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures may petition the Commission to be granted qualifying facility status for the purpose of receiving energy and capacity payments pursuant to these rules.

(2) In general, under the FERC regulations, a small power producer is a qualifying facility if:

(a) the small power producer does not exceed 80 MW; and

(b) the primary (at least 50%) energy source of the small power producer is biomass, waste, or another renewable resource; and

(c) the small power production facility is not owned by a person primarily engaged in the generation or sale of electricity. This criterion is met if less than 50% of the equity interest in the facility is owned by a utility, utility holding company, or a subsidiary of them.

(3) In general, under the FERC regulations, a cogenerator is a qualifying facility if:

(a) the useful thermal energy output of a topping cycle cogeneration facility is not less than 5% of the facility's total energy output per year; and

(b) the useful power output plus half of the useful thermal energy output of a topping cycle cogeneration facility built after March 13, 1980, with any energy input of natural gas or oil is greater than 42.5% or 45% if the useful thermal energy output is less than 15% of the total energy output of the facility; and

(c) the useful power output of a bottoming cycle cogeneration facility built after March 13, 1980, with any energy input as supplementary firing of natural gas or oil is not less than 45% of the natural gas or oil input on an annual basis; and

(d) the cogeneration facility is not owned by a person primarily engaged in the generation or sale of electricity. This criterion is met if less than 50% of the equity interest in the facility is owned by a utility, utility holding company, or a subsidiary of them.

Specific Authority: 366.05(9), 350.127(2), F.S.
Law Implemented: 366.05(9), F.S.
History: New 5/13/81, amended 9/6/83, formerly 25-17.80.

25-17.081 Reserved.

25-17.082 The Utility's Obligation to Purchase; Customer's Selection of Billing Method.

(1) Upon compliance by the qualifying facility with Rule 25-17.087, 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.

(2) Unless the Commission determines that alternative metering requirements cause no adverse effect on the cost or reliability of electric service to the utility's general body of customers, each tariff and standard offer contract shall specify the following metering requirements for billing purposes:

(a) Hourly recording meters shall be required for qualifying facilities with an installed capacity of 100 kilowatts or more.

(b) For qualifying facilities with an installed capacity of less than 100 kilowatts, at the option of the qualifying facility, either hourly recording meters, dual kilowatt-hour register time-of-day meters, or standard kilowatt-hour meters shall be installed. Unless special circumstances warrant, meters shall be read at monthly intervals on the approximate corresponding day of each meter reading period.

(3)(a) A qualifying facility, upon entering into a contract for the sale of firm capacity and energy or prior to delivery of as-available energy to a utility, shall elect to make either simultaneous purchases from the interconnecting utility and sales to the purchasing utility or net sales to the purchasing utility. Once made, the selection of a billing methodology may only be changed:

1. when a qualifying facility selling as-available energy enters into a negotiated contract or standard offer contract for the sale of firm capacity and energy; or
2. when a firm capacity and energy contract expires or is lawfully terminated by either the qualifying facility or the purchasing utility; or
3. when the qualifying facility is selling as-available energy and has not changed billing methods within the last twelve months; and
4. when the election to change billing methods will not contravene the provisions of Rule 25-17.0832 or any contract between the qualifying facility and the utility.

Firm capacity and energy contracts in effect prior to the effective date of this rule shall remain unchanged.

(b) If a qualifying facility elects to change billing methods in accordance with this rule, such change shall be subject to the following provisions:

1. upon at least thirty days advance written notice;
2. upon the installation by the utility of any additional metering equipment reasonably required to effect the change in billing and upon payment by the qualifying facility for such metering equipment and its installation; and

3. upon completion and approval by the utility of any alterations to the interconnection reasonably required to effect the change in billing and upon payment by the qualifying facility for such alterations.

(c) Should a qualifying facility elect to make simultaneous purchases and sales, purchases of electric service by the qualifying facility from the interconnecting utility shall be billed at the retail rate schedule under which the qualifying facility load would receive service as a non-generating customer of the utility; sales of electricity delivered by the qualifying facility to the purchasing utility shall be purchased at the utility's avoided energy and capacity rates, where applicable, in accordance with Rules 25-17.0825 and 25-17.0832.

(d) Should a qualifying facility elect a net billing arrangement, the hourly net energy and capacity sales delivered to the purchasing utility shall be purchased at the utility's avoided energy and capacity rates, where applicable, in accordance with Rules 25-17.0825 and 25-17.0832; purchases from the interconnecting utility shall be billed pursuant to the utility's applicable standby service or supplemental service rate schedules.

(4)(a) Payments for energy and capacity sold by a qualifying facility shall be rendered monthly by the purchasing utility and as promptly as possible, normally by the twentieth business day following the day the meter is read. The kilowatt-hours sold by the qualifying facility, the applicable avoided energy rate at which payments were made, and the rate and amount of the applicable capacity payment shall accompany the payment by the utility to the qualifying facility.

(b) Where simultaneous purchases and sales are made by a qualifying facility, avoided energy and capacity payments to the qualifying facility may, at the option of the qualifying facility, be shown as a credit to the qualifying facility's bill; the kilowatt-hours produced by the qualifying facility, the avoided energy rate at which payments were made, and the rate and amount of the capacity payment shall accompany the bill to the qualifying facility. A credit shall not exceed the amount of the qualifying facility's bill from the utility and the excess, if any, shall be paid directly to the qualifying facility in accordance with this rule.

(5) A utility may require a security deposit from each interconnected qualifying facility in accordance with Rule 25-6.097 for the qualifying facility's purchase of power from the utility. Each utility's tariff shall contain specific criteria for determining the applicability and amount of a deposit from an interconnected qualifying facility consistent with projected net cash flow on a monthly basis.

(6) Each utility shall keep separate accounts for sales to qualifying facilities and purchases from qualifying facilities.

Specific Authority: 366.051, 350.127(2), F.S.
Law Implemented: 366.051, F.S.
History: New 5/13/81, Amended 9/4/83, formerly 25-17.82, amended 10/25/90.

25-17.0825 As-Available Energy.

(1) As-available energy is energy produced and sold by a qualifying facility on an hour-by-hour basis for which contractual commitments as to the quantity, time, or reliability of delivery are not required. Each utility shall purchase as-available energy from any qualifying facility. As-available energy shall be sold by a qualifying facility and purchased by a utility pursuant to the terms and conditions of a published tariff or a separately negotiated contract.

As-available energy sold by a qualifying facility shall be purchased by the utility at a rate, in cents per kilowatt-hour, not to exceed the utility's avoided energy cost. Because of the lack of assurances as to the quantity, time, or reliability of delivery of as-available energy, no capacity payments shall be made to a qualifying facility for the delivery of as-available energy.

(a) Tariff Rates: Each utility shall publish a tariff for the purchase of as-available energy from qualifying facilities. Each utility's published tariff shall state that the rate of payment for as-available energy is the utility's

avoided energy cost as defined in subsection (2) of this rule, less the additional costs directly attributable to the purchase of such energy from a qualifying facility. The additional costs directly associated with the purchase of as-available energy from qualifying facilities shall be specifically identified in the utility's tariff.

(b) Contract Rates: Each utility may enter into a separately negotiated contract for the purchase of as-available energy from a qualifying facility. All contracts for the purchase of as-available energy between a qualifying facility and a utility shall be filed with the Commission within 10 working days of their signing. Those qualifying facilities wishing to negotiate a contract for the sale of firm capacity and energy with terms different from those in a utility's standard offer contract may do so pursuant to Rule 25-17.0832(2). Where parties cannot agree on the terms and conditions of a negotiated contract, either party may apply to the Commission for relief pursuant to Rule 25-17.0834.

(2)(a) Avoided energy costs associated with as-available energy are defined as the utility's actual avoided energy cost before the sale of interchange energy. Avoided energy costs associated with as-available energy shall be all costs the utility avoided due to the purchase of as-available energy, including the utility's incremental fuel, identifiable variable operating and maintenance expense, and identifiable variable utility power purchases. Demonstrable utility administrative costs required to calculate avoided energy costs may be deducted from avoided energy payments. Avoided line losses reflecting the voltage at which generation by the qualifying facility is received by the utility shall also be included in the determination of avoided energy costs. Each utility shall calculate its avoided energy cost associated with as-available energy deterministically, on an hour-by-hour basis, after accounting for interchange sales which have taken place, using the utility's actual avoided energy cost for the hour, as affected by the output of the qualifying facilities connected to the utility's system. A megawatt block size at least equal to the most recent available estimate of the combined average hourly generation of all qualifying facilities making energy sales based on the utility's as-available energy rate to the utility shall be used to calculate the utility's hourly avoided energy costs associated with as-available energy. For the purpose of this subsection, interchange sales are inter-utility sales which are provided at the option of the selling utility exclusive of central pool dispatch transactions.

(b) Each utility's tariff shall include a description of the methodology to be used in the calculation of avoided energy cost implementing subsection (2) of this Rule. Each utility's implementation methodology shall specify the method by which the utility's incremental fuel and operating and maintenance costs and line losses are determined.

(3)(a) For qualifying facilities with hourly recording meters, monthly payments for as-available energy shall be made and shall be calculated based on the product of: (1) the utility's actual avoided energy rate for each hour during the month; and (2) the quantity of energy sold by the qualifying facility during that hour.

(b) For qualifying facilities with dual kilowatt-hour register time-of-day meters, monthly payments for as-available energy shall be calculated based on the average of the utility's actual hourly avoided energy rate for the on-peak and off-peak periods during the month.

(c) For qualifying facilities with standard kilowatt-hour meters, monthly payments for as-available energy shall be calculated based on the average of the utility's actual hourly avoided energy rate for the off-peak periods during the month.

(4) Each utility shall file with the Commission by the twentieth business day of the following month, a monthly report of their actual hourly avoided energy costs, the average of their actual hourly avoided energy costs for the on-peak and

off-peak periods during the month, and the average of their actual hourly avoided energy costs for the month with the Commission. A copy shall be furnished to any individual who requests such information.

(5) Upon request by a qualifying facility or any interested person, each utility shall provide within 30 days its most current projections of its generation mix, fuel price by type of fuel, and at least a five year projection of fuel forecasts to estimate future as-available energy prices as well as any other information reasonably required by the qualifying facility to project future avoided cost prices including, but not limited to, a 24 hour advance forecast of hour-by-hour avoided energy costs. The utility may charge an appropriate fee, not to exceed the actual cost of production and copying, for providing such information.

(6) Utility payments for as-available energy made to qualifying facilities pursuant to the utility's tariff shall be recoverable by the utility through the Commission's periodic review of fuel and purchased power. Utility payments for as-available energy made to qualifying facilities pursuant to a separately negotiated contract shall be recoverable by the utility through the Commission's periodic review of fuel and purchased power costs if the payments are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers.

Specific Authority: 366.051, 350.127(2), F.S.
Law Implemented: 366.051, F.S.
History: New 9/4/83, formerly 25-17.82, amended 10/25/90.

25-17.083 Firm Energy and Capacity.
Specific Authority: 366.04(1), 366.05(1), 366.05(9), 350.127(2), F.S.
Law Implemented: 366.05(9), F.S.
History: New 9/4/83, formerly 25-17.83, Repealed 10/25/90.

25-17.0831 Contracts.
Specific Authority: 366.05(9), 350.127(2), F.S.
Law Implemented: 366.05(9), F.S.
History: New 5/13/81, amended 9/4/83, formerly 25-17.831, Repealed 10/25/90.

25-17.0832 Firm Capacity and Energy Contracts.

(1) Firm capacity and energy are capacity and energy produced and sold by a qualifying facility and purchased by a utility pursuant to a negotiated contract or a standard offer contract subject to certain contractual provisions as to the quantity, time and reliability of delivery.

(a) Within one working day of the execution of a negotiated contract or the receipt of a signed standard offer contract, the utility shall notify the Director of the Division of Electric and Gas and provide the amount of committed capacity and the avoided unit, if any, to which the contract should be applied.

(b) Within 10 working days of the execution of a negotiated contract for the purchase of firm capacity and energy or within 10 working days of receipt of a signed standard offer contract, the purchasing utility shall file with the Commission a copy of the signed contract and a summary of its terms and conditions. At a minimum, such a summary shall report:

1. the name of the utility and the owner and/or operator of the qualifying facility, who are signatories of the contract;
2. the amount of committed capacity specified in the contract, the size of the facility, the type of the facility its location, and its interconnection and transmission requirements;
3. the amount of annual and on-peak and off-peak energy expected to be delivered to the utility;
4. the type of unit being avoided, its size and its in-service year;
5. the in-service date of the qualifying facility; and

6. the date by which the delivery of firm capacity and energy is expected to commence.

(c) Prior to the anticipated in-service date of the avoided unit specified in the contract, a qualifying facility which has negotiated a firm capacity and energy contract or has accepted a utility's standard offer contract may sell as-available energy to any utility pursuant to Rule 25-17.0825.

(2) Negotiated Contracts. Utilities and qualifying facilities are encouraged to negotiate contracts for the purchase of firm capacity and energy. Such contracts will be considered prudent for cost recovery purposes if it is demonstrated that the purchase of firm capacity and energy from the qualifying facility pursuant to the rates, terms, and other conditions of the contract can reasonably be expected to contribute towards the deferral or avoidance of additional capacity construction or other capacity-related costs by the purchasing utility at a cost to the utility's ratepayers which does not exceed full avoided costs, giving consideration to the characteristics of the capacity and energy to be delivered by the qualifying facility under the contract. Negotiated contracts shall not be evaluated against an avoided unit in a standard offer contract, thus preserving the standard offer for small qualifying facilities as described in subsection (3). In reviewing negotiated firm capacity and energy contracts for the purpose of cost recovery, the Commission shall consider factors relating to the contract that would impact the utility's general body of retail and wholesale customers including:

(a) whether additional firm capacity and energy is needed by the purchasing utility and by Florida utilities from a statewide perspective; and

(b) whether the cumulative present worth of firm capacity and energy payments made to the qualifying facility over the term of the contract are projected to be no greater than:

1. the cumulative present worth of the value of a year-by-year deferral of the construction and operation of generation or parts thereof by the purchasing utility over the term of the contract; calculated in accordance with subsection (4) and paragraph (5)(a) of this rule, providing that the contract is designed to contribute towards the deferral or avoidance of such capacity; or
2. the cummulative present worth of other capacity and energy related costs that the contract is designed to avoid such as fuel, operation and maintenance expenses or alternative purchases of capacity, providing that the contract is designed to avoid such costs; and

(c) to the extent that annual firm capacity and energy payments made to the qualifying facility in any year exceed that year's annual value of deferring the construction and operation of generation by the purchasing utility or other capacity and energy related costs, whether the contract contains provisions to ensure repayment of such payments exceeding that year's value of deferring that capacity in the event that the qualifying facility fails to deliver firm capacity and energy pursuant to the terms and conditions of the contract; provided, however, that provisions to ensure repayment may be based on forecasted data; and

(d) considering the technical reliability, viability and financial stability of the qualifying facility, whether the contract contains provisions to protect the purchasing utility's ratepayers in the event the qualifying facility fails to deliver firm capacity and energy in the amount and times specified in the contract.

(3) Standard Offer Contracts.

(a) Upon petition by a utility or pursuant to a Commission action, each public utility shall submit for Commission approval a tariff or tariffs and a standard offer contract or contracts for the purchase of firm capacity and energy from small qualifying facilities less than 75 megawatts or from solid waste facilities as defined in Rule 25-17.091.

(b) The rates, terms, and other conditions contained in each utility's standard offer contract or contracts shall be based on the need for and equal to the avoided cost of deferring or avoiding the construction of additional generation

capacity or parts thereof by the purchasing utility. Rates for payment of capacity sold by a qualifying facility shall be specified in the contract for the duration of the contract. In reviewing a utility's standard offer contract or contracts, the Commission shall consider the criteria specified in paragraphs (2)(a) through (2)(d) of this rule, as well as any other information relating to the determination of the utility's full avoided costs.

(c) In lieu of a separately negotiated contract, a qualifying facility under 75 megawatts or a solid waste facility as defined in Rule 25-17.091(1), F.A.C., may accept any utility's standard offer contract. Qualifying facilities which are 75 megawatts or greater may negotiate contracts for the purchase of capacity and energy pursuant to subsection (2). Should a utility fail to negotiate in good faith, any qualifying facility may apply to the Commission for relief pursuant to Rule 25-17.0834, F.A.C.

(d) Within 60 days of receipt of a signed standard offer contract, the utility shall either accept and sign the contract and return it within five days to the qualifying facility or petition the Commission not to accept the contract and provide justification for the refusal. Such petitions may be based on:

1. a reasonable allegation by the utility that acceptance of the standard offer will exceed the subscription limit of the avoided unit or units; or
2. material evidence that because the qualifying facility is not financially or technically viable, it is unlikely that the committed capacity and energy would be made available to the utility by the date specified in the standard offer.

A standard offer contract which has been accepted by a qualifying facility shall apply towards the subscription limit of the unit designated in the contract effective the date the utility receives the accepted contract. If the contract is not accepted by the utility, its effect shall be removed from the subscription limit effective the date of the Commission order granting the utility's petition.

(e) Minimum Specifications. Each standard offer contract shall, at minimum, specify:

1. the avoided unit or units on which the contract is based;
2. the total amount of committed capacity, in megawatts, needed to fully subscribe the avoided unit specified in the contract;
3. the payment options available to the qualifying facility including all financial and economic assumptions necessary to calculate the firm capacity payments available under each payment option and an illustrative calculation of firm capacity payments for a minimum ten year term contract commencing with the in-service date of the avoided unit for each payment option;
4. the date on which the standard contract offer expires. This date shall be at least four years before the anticipated in-service date of the avoided unit or units unless the avoided unit could be constructed in less than four years, or when the subscription limit has been reached;
5. the date by which firm capacity and energy deliveries from the qualifying facility to the utility shall commence. This date shall be no later than the anticipated in-service date of the avoided unit specified in the contract;
6. the period of time over which firm capacity and energy shall be delivered from the qualifying facility to the utility. Firm capacity and energy shall be delivered, at a minimum, for a period of ten years, commencing with the anticipated in-service date of the avoided unit specified in the contract. At a maximum, firm capacity and energy shall be delivered for a period of time equal to the anticipated plant life of the avoided unit, commencing with the anticipated in-service date of the avoided unit;

7. the minimum performance standards for the delivery of firm capacity and energy by the qualifying facility during the utility's daily seasonal peak and off-peak periods. These performance standards shall approximate the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit over the term of the contract;
8. provisions to ensure repayment of payments to the extent that annual firm capacity and energy payments made to the qualifying facility in any year exceed that year's annual value of deferring the avoided unit specified in the contract in the event that the qualifying facility fails to perform pursuant to the terms and conditions of the contract. Such provisions may be in the form of a surety bond or equivalent assurance of repayment of payments exceeding the year-by-year value of deferring the avoided unit specified in the contract.

(f) The Commission may approve contracts that specify:
1. provisions to protect the purchasing utility's ratepayers in the event the qualifying facility fails to deliver firm capacity and energy in the amount and times specified in the contract which may be in the form of an up-front payment, surety bond, or equivalent assurance of payment. Such payment or surety shall be refunded upon completion of the facility and demonstration that the facility can deliver the amount of capacity and energy specified in the contract; and
2. a listing of the parameters, including any impact on electric power transfer capability, associated with the qualifying facility as compared to the avoided unit necessary for the calculation of the avoided cost.

(g) Firm Capacity Payment Options. Each standard offer contract shall also contain, at a minimum, the following options for the payment of firm capacity delivered by the qualifying facility:
1. Value of deferral capacity payments. Value of deferral capacity payments shall commence on the anticipated in-service date of the avoided unit. Capacity payments under this option shall consist of monthly payments escalating annually of the avoided capital and fixed operation and maintenance expense associated with the avoided unit and shall be equal to the value of a year-by-year deferral of the avoided unit, calculated in accordance with paragraph (5)(a) of this rule.
2. Early capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. Early capacity payments shall consist of monthly payments escalating annually of the avoided capital and fixed operation and maintenance expense associated with the avoided unit, calculated in conformance with paragraph (5)(b) of the rule. At the option of the qualifying facility, early capacity payments may commence at any time after the specified early capacity payment date and before the anticipated in-service date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility. Where early capacity payments are elected, the cumulative present value of the capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (3)(g)1 of this rule.

3. Levelized capacity payments. Levelized capacity payments shall commence on the anticipated in-service date of the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph (5)(c) of this rule. The fixed operation and maintenance portion of capacity payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the avoided unit calculated in conformance with paragraph (5)(a) of this rule. Where levelized capacity payments are elected, the cumulative present value of the levelized capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (3)(g)1 of this rule, value of deferral capacity payments.
4. Early levelized capacity payments. Each standard offer contract shall specify the earliest date prior to the anticipated in-service date of the avoided unit when early levelized capacity payments may commence. The early capacity payment date shall be an approximation of the lead time required to site and construct the avoided unit. The capital portion of capacity payments under this option shall consist of equal monthly payments over the term of the contract, calculated in conformance with paragraph (5)(c) of this rule. The fixed operation and maintenance expense shall be calculated in conformance with paragraph (5)(b) of this rule. At the option of the qualifying facility, early levelized capacity payments shall commence at any time after the specified early capacity date and before the anticipated in-service date of the avoided unit provided that the qualifying facility is delivering firm capacity and energy to the utility. Where early levelized capacity payments are elected, the cumulative present value of the capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of the capacity payments which would have been made to the qualifying facility had such payments been made pursuant to subparagraph (3)(g)1 of this rule.

(4) Avoided Energy Payments.

(a) For the purpose of this rule, avoided energy costs associated with firm energy sold to a utility by a qualifying facility pursuant to a utility's standard offer contract shall commence with the in-service date of the avoided unit specified in the contract. Prior to the in-service date of the avoided unit, the qualifying facility may sell as-available energy to the utility pursuant to Rule 25-17.0825.

(b) To the extent that the avoided unit would have been operated, had that unit been installed, avoided energy costs associated with firm energy shall be the energy cost of this unit. To the extent that the avoided unit would not have been operated, the avoided energy costs shall be the as-available avoided energy cost of the purchasing utility. During the periods that the avoided unit would not have been operated, firm energy purchased from qualifying facilities shall be treated as as-available energy for the purposes of determining the megawatt block size in Rule 25-17.0825(2)(a).

(c) The energy cost of the avoided unit specified in the contract shall be defined as the cost of fuel, in cents per kilowatt-hour, which would have been burned at the avoided unit plus variable operation and maintenance expense plus avoided line losses. The cost of fuel shall be calculated as the average market

price of fuel, in cents per million Btu, associated with the avoided unit multiplied by the average heat rate associated with the avoided unit. The variable operating and maintenance expense shall be estimated based on the unit fuel type and technology of the avoided unit.

(5) Calculation of standard offer contract firm capacity payment options.

(a) Calculation of year-by-year value of deferral. The year-by-year value of deferral of an avoided unit shall be the difference in revenue requirements associated with deferring the avoided unit one year and shall be calculated as follows:

$$VAC_m = \frac{1}{12}\left[KI_n \left[\frac{1 - \frac{(1+ip)}{(1+r)}}{1 - \frac{(1+ip)^L}{(1+r)^L}} \right] + O_n \right]$$

Where, for a one year deferral:

- VAC_m = utility's monthly value of avoided capacity, in dollars per kilowatt per month, for each month of year n;
- K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present value to the middle of the first year;
- I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the avoided unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction of the avoided unit that would have been paid had the avoided unit been constructed;
- O_n = total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the avoided unit;
- i_p = annual escalation rate associated with the plant cost of the avoided unit(s);
- i_o = annual escalation rate associated with the operation and maintenance expense of the avoided unit(s);
- r = annual discount rate, defined as the utility's incremental after tax cost of capital;
- L = expected life of the avoided unit; and
- n = year for which the avoided unit is deferred starting with its original anticipated in-service date and ending with the termination of the contract for the purchase of firm energy and capacity.

(b) Calculation of early capacity payments. Monthly early capacity payments shall be calculated as follows:

$$A_m = \frac{A_c}{12}(1+ip)^{(m-1)} + \frac{A_o}{12}(1+io)^{(m-1)} \quad \text{for } m=1 \text{ to } t$$

Where: A_m = monthly early capacity payments to be made to the qualifying facility for each month of the contract year n, in dollars per kilowatt per month;

- i_p = annual escalation rate associated with the plant cost of the avoided unit;
- i_o = annual escalation note associated with the operation and maintenance expense of the avoided unit(s);
- m = year for which early capacity payments to a qualifying facility are made, starting in year one and ending in the year t;

t = the term, in years, of the contract for the purchase of firm capacity;

$$A_C = F \left[\frac{1 - \frac{(1 + ip)}{(1 + r)}^t}{1 - \frac{(1 + ip)}{(1 + r)}^t} \right]$$

Where: F = the cumulative present value in the year that the contractual payments will begin, of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the avoided unit(s); and

r = annual discount rate, defined as the utility's incremental after tax cost of capital; and

$$A_O = G \left[\frac{1 - \frac{(1 + io)}{(1 + r)}^t}{1 - \frac{(1 + io)}{(1 + r)}^t} \right]$$

Where: G = The cumulative present value in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the avoided unit.

(c) Levelized and early levelized capacity payments. Monthly levelized and early levelized capacity payments shall be calculated as follows:

$$P_L = \frac{F}{12} \times \frac{r}{1-(1+r)^{-t}} + O$$

Where: P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of the avoided unit;

F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the capacity payments which would have been made had the capacity payments not been levelized;

r = the annual discount rate, defined as the utility's incremental after tax cost of capital; and

t = the term, in years, of the contract for the purchase of firm capacity.

O = the monthly fixed operation and maintenance component of the capacity payments, calculated in accordance with paragraph (5)(a) for levelized capacity payments or with paragraph (5)(b) for early levelized capacity payments.

(6) Sale of Excess Firm Energy and Capacity. To the extent that firm energy and capacity purchased from a qualifying facility pursuant to a standard offer contract or an individually negotiated contract is not needed by the purchasing utility, these rules shall be construed to encourage the

purchasing utility to sell all or part of the energy and capacity to the utility in need of energy and capacity at a mutually agreed upon price which is cost effective to the ratepayers.

(7) Upon request by a qualifying facility or any interested person, each utility shall provide within 30 days its most current projections of its future generation mix including type and timing of anticipated generation additions, and at least a 20-year projection of fuel forecasts, as well as any other information reasonably required by the qualifying facility to project future avoided cost prices. The utility may charge an appropriate fee, not to exceed the actual cost of production and copying, for providing such information.

(8)(a) Firm energy and capacity payments made to a qualifying facility pursuant to a separately negotiated contract shall be recoverable by a utility through the Commission's periodic review of fuel and purchased power costs if the contract is found to be prudent in accordance with subsection (2) of this rule.

(b) Upon acceptance of the contract by both parties, firm energy and capacity payments made to a qualifying facility pursuant to a standard offer contract shall be recoverable by a utility through the Commission's periodic review of fuel and purchased power costs.

(c) Firm energy and capacity payments made pursuant to a standard offer contract signed by the qualifying facility, for which the utility has petitioned the Commission to reject, is recoverable through the Commission's periodic review of fuel and purchased power costs if the Commission requires the utility to accept the contract because it satisfies subsection (3) of this rule.

Specific Authority: 350.127, 366.04(1), 366.051, 366.05(8), F.S.
Law Implemented: 366.051, 403.503, F.S.
History: New 10/25/90.

25-17.0833 Planning Hearings.

(1) Upon petition or on its own motion, the Commission shall periodically review optimal generation and transmission plans from a statewide and individual utility perspective. In connection with these proceedings, the Commission shall consider the need for capacity from both a statewide and individual utility perspective, the adequacy of the transmission grid, and other strategic planning concerns affecting the Florida electric grid.

(2) Upon petition, or on its own motion, the Commission, as needed, shall review individual utility generation and expansion plans at any time.

Specific Authority: 366.05(8), 366.051, 350.127(2), F.S.
Law Implemented: 366.051, F.S.
History: New 10/25/90.

25-17.0834 Settlement of Disputes in Contract Negotiations.

(1) Public utilities shall negotiate in good faith for the purchase of capacity and energy from qualifying facilities and interconnection with qualifying facilities. In the event that a utility and a qualifying facility cannot agree on the rates, terms, and other conditions for the purchase of capacity and energy, either party may apply to the Commission for relief. Qualifying facilities may petition the Commission to order a utility to sign a contract for the purchase of capacity and energy which does not exceed a utility's full avoided costs as defined in 366.051, Florida Statutes, should the Commission find that the utility failed to negotiate in good faith.

(2) To the extent possible, the Commission will dispose of an application for relief within 90 days of the filing of a petition by either a utility or a qualifying facility.

(3) If the Commission finds that a utility has failed to negotiate or deal in good faith with qualifying facilities, or has explicitly dealt in bad faith with qualifying facilities, it shall impose an appropriate penalty on the utility as approved by section 350.127, Florida Statutes.
Specific Authority: 366.051, 350.127(2), F.S.
Law Implemented: 366.051, F.S.
History: New 10/25/90.

25-17.0835 Wheeling.
Specific Authority: 366.05(9), 350.127(2), F.S.
Law Implemented: 366.05(9), 366.055(3), F.S.
History: New 9/4/83, repealed 10/4/85, formerly 25-17.835.

25-17.084 The Utility's Obligation to Sell.
Upon compliance with Rule 25-17.087, each utility shall sell energy to qualifying facilities at rates which are just, reasonable, and non-discriminatory.
Specific Authority: 366.05(9), 350.127(2), F.S.
Law Implemented: 366.05(9), F.S.
History: New 5/13/81, amended 9/4/83, formerly 25-17.84.

25-17.085 Reserved.

25-17.086 Periods During Which Purchases are not Required.
Where purchases from a qualifying facility will impair the utility's ability to give adequate service to the rest of its customers or, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make such purchases, or otherwise place an undue burden on the utility, the utility shall be relieved of its obligation under Rule 25-17.082 to purchase electricity from a qualifying facility. The utility shall notify the qualifying facility(ies) prior to the instance giving rise to those conditions, if practicable. If prior notice is not practicable, the utility shall notify the qualifying facility(ies) as soon as practicable after the fact. In either event the utility shall notify the Commission, and the Commission staff shall, upon request of the affected qualifying facility(ies), investigate the utility's claim. Nothing in this section shall operate to relieve the utility of its general obligation to purchase pursuant to Rule 25-17.082.
Specific Authority: 366.05(9), 350.127(2), F.S.
Law Implemented: 366.05(9), F.S.
History: New 5/13/81, Amended 9/6/83, formerly 25-17.86.

25-17.087 Interconnection and Standards.
(1) Each utility shall interconnect with any qualifying facility which:
(a) is in its service area;
(b) requests interconnection;
(c) agrees to meet system standards specified in this rule; (d) agrees to pay the cost of interconnection; and
(e) signs an interconnection agreement.
(2) Nothing in this rule shall be construed to preclude a utility from evaluating each request for interconnection on its own merits and modifying the general standards specified in this rule to reflect the result of such an evaluation.
(3) Where a utility refuses to interconnect with a qualifying facility or attempts to impose unreasonable standards pursuant to subsection (2) of this rule, the qualifying facility may petition the Commission for relief. The utility shall have the burden of demonstrating to the Commission why

interconnection with the qualifying facility should not be required or that the standards the utility seeks to impose on the qualifying facility pursuant to subsection (2) are reasonable.

(4) Upon a showing of credit worthiness, the qualifying facility shall have the option of making monthly installment payments over a period no longer than 36 months toward the full cost of interconnection. However, where the qualifying facility exercises that option the utility shall charge interest on the amount owing. The utility shall charge such interest at the 30-day commercial paper rate. In any event, no utility may bear the cost of interconnection.

(5) Application for Interconnection. A qualifying facility shall not operate electric generating equipment in parallel with the utility's electric system without the prior written consent of the utility. Formal application for interconnection shall be made by the qualifying facility prior to the installation of any generation related equipment. This application shall be accompanied by the following:

(a) Physical layout drawings, including dimensions;

(b) All associated equipment specifications and characteristics including technical parameters, ratings, basic impulse levels, electrical main one-line diagrams, schematic diagrams, system protections, frequency, voltage, current and interconnection distance;

(c) Functional and logic diagrams, control and meter diagrams, conductor sizes and length, and any other relevant data which might be necessary to understand the proposed system and to be able to make a coordinated system;

(d) Power requirements in watts and vars;

(e) Expected radio-noise, harmonic generation and telephone interference factor;

(f) Synchronizing methods; and

(g) Operating/instruction manuals.

Any subsequent change in the system must also be submitted for review and written approval prior to actual modification. The above mentioned review, recommendations and approval by the utility do not relieve the qualifying facility from complete responsibility for the adequate engineering design, construction and operation of the qualifying facility equipment and for any liability for injuries to property or persons associated with any failure to perform in a proper and safe manner for any reason.

(6) Personnel Safety. Adequate protection and safe operational procedures must be developed and followed by the joint system. These operating procedures must be approved by both the utility and the qualifying facility. The qualifying facility shall be required to furnish, install, operate and maintain in good order and repair, and be solely responsible for, without cost to the utility, all facilities required for the safe operation of the generation system in parallel with the utility's system.

The qualifying facility shall permit the utility's employees to enter upon its property at any reasonable time for the purpose of inspection and/or testing the qualifying facility's equipment, facilities, or apparatus. Such inspections shall not relieve the qualifying facility from its obligation to maintain its equipment in safe and satisfactory operating condition.

The utility's approval of isolating devices used by the qualifying facility will be required to ensure that these will comply with the utility's switching and tagging procedure for safe working clearances.

(a) Disconnect Switch. A manual disconnect switch, of the visible load break type, to provide a separation point between the qualifying facility's generation system and the utility's system, shall be required. The utility will specify the location of the disconnect switch. The switch shall be mounted separate from the meter socket and shall be readily accessible to

the utility and be capable of being locked in the open position with a utility padlock. The utility may reserve the right to open the switch (i.e. isolating the qualifying facility's generation system) without prior notice to the qualifying facility. To the extent practicable, however, prior notice shall be given.

Any of the following conditions shall be cause for disconnection:

1. Utility system emergencies and/or maintenance requirements;
2. Hazardous conditions existing on the qualifying facility's generating or protective equipment as determined by the utility;
3. Adverse effects of the qualifying facility's generation to the utility's other electric consumers and/or system as determined by the utility;
4. Failure of the qualifying facility to maintain any required insurance; or
5. Failure of the qualifying facility to comply with any existing or future regulations, rules, orders or decisions of any governmental or regulatory authority having jurisdiction over the qualifying facility's electric generating equipment or the operation of such equipment.

(b) Responsibility and Liability. The utility and the qualifying facility shall each be responsible for its own facilities. The utility and the qualifying facility shall each be responsible for ensuring adequate safeguards for other utility customers, utility and qualifying facility personnel and equipment, and for the protection of its own generating system. The utility and the qualifying facility shall each indemnify and save the other harmless from any and all claims, demands, costs, or expense for loss, damage, or injury to persons or property of the other caused by, arising out of, or resulting from:

1. Any act or omission by a party or that party's contractors, agents, servants and employees in connection with the installation or operation of that party's generation system or the operation thereof in connection with the other party's system;
2. Any defect in, failure of, or fault related to a party's generation system;
3. The negligence of a party or negligence of that party's contractors, agents servants and employees; or
4. Any other event or act that is the result of, or proximately caused by, a party.

For the purposes of this subsection, the term party shall mean either utility or qualifying facility, as the case may be.

(c) Insurance. The qualifying facility shall deliver to the utility, at least fifteen days prior to the start of any interconnection work, a certificate of insurance certifying the qualifying facility's coverage under a liability insurance policy issued by a reputable insurance company authorized to do business in the State of Florida naming the qualifying facility as named insured, and the utility as an additional named insured, which policy shall contain a broad form contractual endorsement specifically covering the liabilities accepted under this agreement arising out of the interconnection to the qualifying facility, or caused by operation of any of the qualifying facility's equipment or by the qualifying facility's failure to maintain the qualifying facility's equipment in satisfactory and safe operating condition.

The policy providing such coverage shall provide public liability insurance, including property damage, in an amount not less than $300,000 for each occurrence; more insurance may be required as deemed necessary by

the utility. In addition, the above required policy shall be endorsed with a provision whereby the insurance company will notify the utility thirty days prior to the effective date of cancellation or material change in the policy.

The qualifying facility shall pay all premiums and other charges due on said policy and keep said policy in force during the entire period of interconnection with the utility.

(7) Protection and Operation. It will be the responsibility of the qualifying facility to provide all devices necessary to protect the qualifying facility's equipment from damage by the abnormal conditions and operations which occur on the utility system that result in interruptions and restorations of service by the utility's equipment and personnel. The qualifying facility shall protect its generator and associated equipment from overvoltage, undervoltage, overload, short circuits (including ground fault condition), open circuits, phase unbalance and reversal, over or under frequency condition, and other injurious electrical conditions that may arise on the utility's system and any reclose attempt by the utility.

The utility may reserve the right to perform such tests as it deems necessary to ensure safe and efficient protection and operation of the qualifying facility's equipment.

(a) Loss of Source: The qualifying facility shall provide, or the utility will provide at the qualifying facility's expense, approved protective equipment necessary to immediately, completely, and automatically disconnect the qualifying facility's generation from the utility's system in the event of a fault on the qualifying facility's system, a fault of the utility's system, or loss of source on the utility's system. Disconnection must be completed within the time specified by the utility in its standard operating procedure for its electric system for loss of a source on the utility's system.

This automatic disconnecting device may be of the manual or automatic reclose type and shall not be capable of reclosing until after service is restored by the utility. The type and size of the device shall be approved by the utility depending upon the installation. Adequate test data or technical proof that the device meets the above criteria must be supplied by the qualifying facility to the utility. The utility shall approve a device that will perform the above functions at minimal capital and operating costs to the qualifying facility.

(b) Coordination and Synchronization. The qualifying facility shall be responsible for coordination and synchronization of the qualifying facility's equipment with the utility's electrical system, and assumes all responsibility for damage that may occur from improper coordination or synchronization of the generator with the utility's system.

(c) Electrical Characteristics. Single phase generator interconnections with the utility are permitted at power levels up to 20 KW. For power levels exceeding 20 KW, a three phase balanced interconnection will normally be required. For the purpose of calculating connected generation, 1 horsepower equals 1 kilowatt. The qualifying facility shall interconnect with the utility at the voltage of the available distribution or the transmission line of the utility for the locality of the interconnection, and shall utilize one of the standard connections (single phase, three phase, wye, delta) as approved by the utility.

The utility may reserve the right to require a separate transformation and/or service for a qualifying facility's generation system, at the qualifying facility's expense. The qualifying facility shall bond all neutrals of the qualifying facility's system to the utility's neutral, and shall install a separate driven ground with a resistance value which shall be determined by the utility and bond this ground to the qualifying facility's system neutral.

(d) Exceptions. A qualifying facility's generator having a capacity rating that can:

1. produce power in excess of 1/2 of the minimum utility customer requirements of the interconnected distribution or transmission circuit; or
2. produce power flows approaching or exceeding the thermal capacity of the connected utility distribution or transmission lines or transformers; or
3. adversely affect the operation of the utility or other utility customer's voltage, frequency or overcurrent control and protection devices; or
4. adversely affect the quality of service to other utility customers; or
5. interconnect at voltage levels greater than distribution voltages,

will require more complex interconnection facilities as deemed necessary by the utility.

(8) Quality of Service. The qualifying facility's generated electricity shall meet the following minimum guidelines:

(a) Frequency. The governor control on the prime mover shall be capable of maintaining the generator output frequency within limits for loads from no-load up to rated output. The limits for frequency shall be 60 hertz (cycles per second), plus or minus an instantaneous variation of less than 1%.

(b) Voltage. The regulator control shall be capable of maintaining the generator output voltage within limits for loads from no-load up to rated output. The limits for voltage shall be the nominal operating voltage level, plus or minus 5%.

(c) Harmonics. The output sine wave distortion shall be deemed acceptable when it does not have a higher content (root mean square) of harmonics than the utility's normal harmonic content at the interconnection point.

(d) Power Factor. The qualifying facility's generation system shall be designed, operated and controlled to provide reactive power requirements from 0.85 lagging to 0.85 leading power factor. Induction generators shall have static capacitors that provide at least 85% of the magnetizing current requirements of the induction generator field. (Capacitors shall not be so large as to permit self-excitation of the qualifying facility's generator field).

(e) DC Generators. Direct current generators may be operated in parallel with the utility's system through a synchronous invertor. The inverter must meet all criteria in these rules.

(9) Metering. The actual metering equipment required, its voltage rating, number of phases, size, current transformers, potential transformers, number of inputs and associated memory is dependent on the type, size and location of the electric service provided. In situations where power may flow both in and out of the qualifying facility's system, power flowing into the qualifying facility's system will be measured separately from power flowing out of the qualifying facility's system.

The utility will provide, at no additional cost to the qualifying facility, the metering equipment necessary to measure capacity and energy deliveries to the qualifying facility. The utility will provide, at the qualifying facility's expense, the necessary additional metering equipment to measure energy deliveries by the qualifying facility to the utility.

(10) Cost Responsibility. The qualifying facility is required to bear all costs associated with the change-out, upgrading 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. These costs shall be paid by the qualifying facility to the utility for all material and labor that is required. Prior to any work being done by the utility, the utility shall supply the qualifying facility with a written cost estimate of all its required materials and labor and an estimate of the date by which construction of the interconnection will be completed. This estimate shall be provided to the qualifying facility within 60 days after the qualifying facility supplies the utility with its final electrical plans. The utility shall also provide project timing and feasibility information to the qualifying facility.

(11) Each utility shall submit to the Commission, a standard agreement for interconnection by qualifying facilities as part of their standard offer contract or contracts required by Rule 25-17.0832(3).
Specific Authority: 366.051, 350.127(2), F.S.
Law Implemented: 366.051, F.S.
History: New 9/4/83, formerly 25-17.87, Amended 10/25/90.

25-17.088 Transmission Service for Qualifying Facilities.
Specific Authority: 350.127(2), 366.051, F.S.
Law Implemented: 366.051, 366.06(3), 366.055(3), F.S.
History: New 10/4/85, formerly 25-17.88, Amended 2/3/87, Repealed 10/25/90.

25-17.0882 Transmission Service Not Required for Self-Service.
Specific Authority: 350.127(2), 366.05(1), F.S.
Law Implemented: 366.05(9), 366.06(3), 366.055(3), F.S.
History: New 10/6/85, formerly 25-17.882, Repealed 10/25/90.

25-17.0883 Conditions Requiring Transmission Service for Self-service.
Public utilities are required to provide transmission and distribution services to enable a retail customer to transmit electrical power generated at one location to the customer's facilities at another location when the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility's general body of retail and wholesale customers or adversely affect the adequacy or reliability of electric service to all customers. The determination of whether transmission service for self service is likely to result in higher cost electric service may be made using cost effectiveness methodology employed by the Commission in evaluating conservation programs of the utility, adjusted as appropriate to reflect the qualifying facility's contribution to the utility for standby service and wheeling charges, other utility program costs, the fact that qualifying facility self-service performance can be precisely metered and monitored, and taking into consideration the unique load characteristics of the qualifying facility compared to other conservation programs.
Specific Authority: 366.051, 350.127(2), F.S.
Law Implemented: 366.051, F.S.
History: New 10/25/90.

25-17.089 Transmission Service for Qualifying Facilities.
(1) Upon request by a qualifying facility, each electric utility in Florida shall provide, subject to the provisions of subsection (3) of this rule, transmission service to wheel as-available energy or firm energy and capacity produced by a Qualifying Facility from the Qualifying Facility to another electric utility.

(2) The rates, terms, and conditions for transmission services as described in subsection (1) and in Rule 25-17.0883 which are provided by an investor-owned utility shall be those approved by the Federal Energy Regulatory Commission.

(3) An electric utility may deny, curtail, or discontinue transmission service to a Qualifying Facility on a non- discriminatory basis if the provision of such service would adversely affect the safety, adequacy, reliability, or cost of providing electric service to the utility's general body of retail and wholesale customers.
Specific Authority: 366.051, 350.127(2), F.S.
Law Implemented: 366.051, 366.055(3), F.S.
History: New 10/25/90.

25-17.090 Reserved.

25-17.091 Governmental Solid Waste Energy and Capacity.

(1) Definitions and Applicability:

(a) "Solid Waste Facility" means a facility owned or operated by, or on behalf of, local government, the purpose of which is to dispose of solid waste, as that term is defined in section 403.703(13), Fla. Stat. (1988), and to generate electricity.

(b) A facility is owned by or operated on behalf of a local government if the power purchase agreement is between the local government and the electric utility.

(c) A solid waste facility shall include a facility which is not owned or operated by a local government but is operated on its behalf. When the power purchase agreement is between a non-governmental entity and an electric utility, the facility is operated by a private entity on behalf of a local government if:

1. One or more local governments have entered into a long-term agreement with the private entity for the disposal of solid waste for which the local governments are responsible and that agreement has a term at least as long as the term of the contract for the purchase of energy and capacity from the facility; and
2. The Commission determines there is no undue risk imposed on the electric ratepayers of the purchasing utility, based on:
    a. The local government's acceptance of responsibility for the private entity's performance of the power purchase contract, or
    b. Such other factors as the Commission deems appropriate, including, without limitation, the issuance of bonds by the local government to finance all, or a substantial portion, of the costs of the facility; the reliability of the solid waste technology; and the financial capability of the private owner and operator.
3. The requirements of subparagraph 2 shall be satisfied if a local government described in subparagraph 1 enters into an agreement with the purchasing utility providing that in the event of a default by the private entity under the power purchase contract, the local government shall perform the private entity's obligations, or cause them to be performed, for the remaining term of the contract, and shall not seek to renegotiate the power purchase contract.

(d) This rule shall apply to all contracts for the purchase of energy or capacity from solid waste facilities entered into, or renegotiated as provided in subsection (3), after October 1, 1988.

(2) Except as provided in subsections (3) and (4) of this rule, the provisions of Rules 25-17.080 - 25-17.089, Florida Administrative Code, are applicable to contracts for the purchase of energy and capacity from a solid waste facility.

(3) Any solid waste facility which has an existing firm energy and capacity contract in effect before October 1, 1988, shall have a one-time option to renegotiate that contract to incorporate any or all of the provisions of subsection (2) and (4) into their contract. This renegotiation shall be based on the unit that the contract was designed to avoid but applying the most recent Commission-approved cost estimates of Rule 25-17.0832(5)(a), Florida Administrative Code, for the same unit type and in-service year to determine the utility's value of avoided capacity over the remaining term of the contract.

(4) Because section 377.709(4), Fla. Stat., requires the local government to refund early capacity payments should a solid waste facility be abandoned, closed down or rendered illegal, a utility may not require risk-related guarantees as required in Rule 25-17.0832, paragraph (2)(c), (2)(d), (3)(e)8, and (3)(f)1. However, at its option, a solid waste facility may provide such risk related guarantee.

(5) Nothing in this rule shall preclude a solid waste facility from electing advance capacity payments authorized pursuant to section 377.709(3)(b), F.S., which advanced capacity payments shall be in lieu of firm capacity payments otherwise authorized pursuant to this rule and Rule 25-17.0832, F.A.C. The provisions of subsection (4) are applicable to solid waste facilities electing advanced capacity payments.

Specific Authority: 350.127(2), 377.709(5), F.S.
Law Implemented: 366.051, 366.055(3), 377.709, F.S.
History: New 8/8/85, formerly 25-17.91, Amended 4/26/89, 10/25/90.

EXHIBIT 2

RELEASE

THIS RELEASE is executed and entered into as of this ____ day of __________, 1996, by NCP Lake Power Incorporated, a Delaware corporation, for itself and on behalf of Lake Cogen, Ltd., a Florida limited partnership, and by Florida Power Corporation, a Florida corporation, (each a "Party" and collectively, the "Parties"), and their successors, assigns, divisions, departments, and subsidiaries whether wholly or partially owned (hereinafter collectively "Releasors").

By and through this RELEASE and for the consideration, terms, and conditions recited in the Settlement Agreement and Amendment to Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility Between Lake Cogen, Ltd., and Florida Power Corporation, dated March 1[illegible], [illegible] (the "Settlement Agreement"), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of Lake Cogen, Ltd. and Florida Power Corporation and their respective Releasors do hereby:

1. Acquit, discharge, and forever release the other Party, as well as its officers, directors, shareholders, agents, attorneys, employees, successors, assigns, subsidiaries, divisions, departments, lenders and affiliates, including but not limited to, in the case of the release of Florida Power Corporation, Electric Fuels Corporation, Progress Energy Corporation, and Florida Progress Corporation, (hereinafter collectively "Releasees"), from any and all actions, causes of action, damages, debts, escrows, promises, liabilities, obligations, representations, rights, set-offs, trespasses, torts, wrongs, counterclaims and claims of any and all kinds whatsoever (hereinafter collectively "claims") with respect to those claims actually asserted or those claims which accrued prior to the Settlement Date and which could have been asserted in the Litigation because they would have been based, in whole or in part, on the acts, allegations, transactions, or occurrences that preceded the Settlement Date and were raised by either Party in the action filed in the Circuit Court of the Fifth Judicial Circuit in and for Lake County, Florida styled _NCP Lake Power Incorporated, a Delaware corporation, as General Partner of Lake Cogen Ltd., a Florida limited partnership v. Florida Power_

Corporation, a Florida corporation, Case No. 94 2354 [illegible] "Litigation"); and

2. Covenant not to sue the other Party or its respective Releasees on any and all claims that could be asserted against Releasees in the future in any lawsuit or proceeding in any court or administrative tribunal of competent jurisdiction, whether state or federal, arising under the laws of this state or any other state and/or under any federal laws, whether statutory or common law, which claims would be based, in whole or in part, on any of the alleged wrongful acts or omissions prior to the Settlement Date that formed the basis of any of the claims actually asserted by either Party against the other Party in the Litigation.

Notwithstanding any of the foregoing, this RELEASE shall not extend to (a) the obligations of the Parties under the Confidentiality Order in the Litigation entered on __________; (b) the obligations of the Parties remaining at the time of the execution of this RELEASE under the Settlement Agreement; (c) the obligations of the Parties under the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility Between Lake Cogen, Ltd., and Florida Power Corporation ("PPA"), as amended by the Settlement Agreement; and (d) any claims specifically preserved in Section 9 of the Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement with the approval of their attorneys, and each party has executed this Agreement by its duly authorized representative.

FLORIDA POWER INCORPORATED

By: ______________________________

Title: ____________________________

STATE OF ________________
COUNTY OF ________________

The foregoing instrument was acknowledged before me this ____ day ________________, 1996, by __________________________, who is personally known to me and who has produced __________ as identification and who did take an oath.

My Commission Expires:

____
NOTARY PUBLIC
State of __________ at Large

____
Printed Name of Notary

LAKE COGEN, LTD.
By: NCP Lake Power
Incorporated

By:________________________

Title:______________________

STATE OF______________
COUNTY OF_____________

The foregoing instrument was acknowledged before me this ______ day ______________, 1996, by ______________________, who is personally known to me and who has produced ________ as identification and who did take an oath.

My Commission Expires:

____
NOTARY PUBLIC
State of __________ at Large

____
Printed Name of Notary

EXHIBIT 3

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA

LAKE COGEN, LTD., a Florida limited partnership by its general partner NCP LAKE POWER INCORPORATED, a Delaware corporation,

Plaintiff,

CASE NO. 94-2354-CA01

vs.

[Division Y]

FLORIDA POWER CORPORATION,

Defendant.
_______________________________/

PLAINTIFF'S UNOPPOSED MOTION FOR DISMISSAL WITH PREJUDICE

In accordance with the parties' Settlement Agreement and the Release executed attendant thereto, the parties have reached a full and final settlement of the matters raised in this case. All of the conditions necessary to that Settlement Agreement becoming final and binding having occurred, there is no need for further proceedings in this case.

Accordingly, plaintiff Lake Cogen, Ltd., by and through its general partner NCP Lake Power Incorporated, hereby moves the Court for an order dismissing with prejudice the above-referenced action, including all claims raised therein, and setting aside the Order Granting Partial Summary Judgment for the Plaintiffs and against the Defendant, entered on January 23, 1996 in this case.

Defendant Florida Power Corporation has no objection to the motion.

____

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA

LAKE COGEN, LTD., a Florida
limited partnership by its
general partner NCP LAKE
POWER INCORPORATED, a
Delaware corporation,

CASE NO. 94-2354-CA01

Plaintiff,

vs.

[Division Y]

FLORIDA POWER CORPORATION,

Defendant.

_______________________________/

ORDER

This matter is before the Court on the Plaintiff's Unopposed Motion for Dismissal with Prejudice. The Court having been duly advised in the premises, it is hereby

ORDERED AND ADJUDGED that this action, including all claims contained therein, is hereby dismissed with prejudice. The parties shall bear their own costs.

____
Circuit Judge

Conformed copies to:

Petition for Expedited Approval of Settlement Agreement with Lake Cogen, Ltd. by Florida Power Corporation.

EXHIBIT B

Calculation of Settlement Amount for Energy Payment Dispute from August 1994 through October 1996

LAKE Settlement

Calculation of Settlement Amount for Energy Payment Dispute from August 1994 through Ocober 1996

For the month of:	Actual Energy Payment	Energy Payments according Lake Settlement	Amount in Dispute with Lake	30 day Commercial Paper Interest	Total Amount Due to Lake
Aug-94	$1,564,809.78	$1,746,332.06	$181,522.28		
Sep-94	$1,476,340.03	$1,747,819.80	$271,479.77		
Oct-94	$1,582,868.96	$1,822,563.75	$239,694.79	$777.01	$182,299.29
Nov-94	$1,269,339.25	$1,509,983.68	$240,644.43	$1,864.85	$455,643.91
Dec-94	$1,520,746.33	$1,796,263.47	$275,517.14	$3,342.58	$698,681.28
Jan-95	$1,275,667.09	$1,432,231.51	$156,564.42	$4,810.63	$944,136.34
Feb-95	$1,430,402.61	$1,573,355.86	$142,953.25	$5,707.31	$1,225,360.79
Mar-95	$1,415,105.62	$1,574,500.18	$159,394.56	$7,100.82	$1,389,026.04
Apr-95	$1,495,617.81	$1,746,734.15	$251,116.34	$7,706.07	$1,539,685.35
May-95	$1,627,505.29	$1,739,255.98	$111,750.69	$8,759.34	$1,707,839.25
Jun-95	$1,497,456.98	$1,672,708.62	$175,251.64	$9,773.31	$1,968,728.90
Jul-95	$1,520,319.96	$1,701,096.38	$180,776.40	$10,778.59	$2,091,258.19
Aug-95	$1,183,697.59	$1,379,897.63	$196,200.04	$11,280.39	$2,277,790.21
Sep-95	$1,422,322.16	$1,660,930.64	$238,608.48	$11,801.12	$2,470,367.73
Oct-95	$1,473,420.98	$1,783,594.38	$310,173.38	$13,452.65	$2,680,020.43
Nov-95	$1,217,629.01	$1,603,728.55	$386,099.54	$13,937.45	$2,932,566.36
Dec-95	$1,489,889.35	$1,729,685.91	$239,796.56	$15,973.82	$3,258,713.56
Jan-96	$1,500,243.88	$1,759,302.07	$259,058.19	$17,936.26	$3,552,749.37
Feb-96	$1,336,944.96	$1,651,522.57	$314,577.61	$16,697.78	$3,919,243.71
Mar-96	$1,462,873.87	$1,578,805.84	$115,931.97	$18,862.86	$4,197,164.76
Apr-96	$1,503,136.90	$1,572,121.51	$68,984.61	$20,339.82	$4,532,082.19
May-98	$1,665,900.33	$1,703,916.92	$38,016.59	$21,258.95	$4,669,273.11
Jun-96	$1,502,038.30	$1,618,236.91	$116,198.61	$20,972.62	$4,759,230.34
Jul-96	$1,512,608.27	$1,645,409.64	$132,801.57	$22,429.10	$4,819,676.02
Aug-96	$1,546,461.92	$1,703,731.13	$157,269.21	$22,784.59	$4,958,659.23
Sep-96	$1,571,342.59	$1,656,860.08	$85,517.49	$23,287.17	$5,114,747.97
Oct-96	$1,381,577.58	$1,487,282.91	$105,705.33	$24,291.61	$5,296,308.79
Nov-96			$0.00	$24,524.07	$5,406,350.35
Dec-96			$0.00	$0.00	$5,512,055.68
TOTAL			$5,151,605	$360,451	$5,512,056

Petition for Expedited Approval of Settlement Agreement with Pasco Cogen, Ltd. by Florida Power Corporation.

EXHIBIT C

Calculation of Savings from Settlement of Energy Dispute and Early Termination Buy-Out

LAKE Settlement

Calculation of Savings from Settlement of Energy Dispute and Early Termination Buy-Out

	(a)	(b)	(c1)	(c2)	(c)	(b-c)
	Total Payments according to FPC Position	Total Payments according to adjusted LCL Position	Total Payments to Lake according to Settlement	Cost of Replacement minus Value of Curtailment	Net Settlement Costs	Ratepayer Savings/(Cost)
1996						
1997						
1998						
1999						
2000						
2001						
2002						
2003						
2004						
2005						
2006						
2007						
2008						
2009						
2010						
2011						
2012						
2013						
Cumulative						$53,959,190.51
NPV @ 8.87%						$25,233,483.44