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December 11, 2020

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk and Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

RE: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Joint Informational Filing on the Southeast Energy Exchange Market ("SEEM") Platform Agreement to be proposed to the Federal Energy Regulatory Commission

Dear Ms. Boyd:

Please find attached information filed in North Carolina, and correspondingly filed with this Commission, on the proposed Southeast Energy Exchange Market ("SEEM") platform agreement that will reflect Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP, collectively, the "Companies") as individual, signatory members of the SEEM. As described in more detail below and in the attached filing made in North Carolina, the SEEM platform agreement ("Platform Agreement") establishes a region-wide, automated, intra-hour platform to match buyers and sellers with the goal of more efficient bilateral trading and assumes utilization of unused transmission capacity to achieve cost savings for customers in the Southeast region of the country ("Platform"). The Platform Agreement is being filed with this Commission for informational purposes only because it is subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission ("FERC") as it relates to interstate transmission service. As explained in more detail below and in the attached, neither this Commission nor the North Carolina Utilities Commission is required to take any action in relation to this filing. Because the Platform Agreement is subject to the exclusive jurisdiction of the FERC, the Companies intend to file it at the FERC for its approval under Federal Power Act Section 205(c), 16 U.S.C. 824(c), on or about December 28, 2020.

The SEEM will act as an overlay to the existing bilateral market to increase efficiency and opportunities for wholesale economic energy purchases and sales by creating an automated platform for matching buyers and sellers for 15-minute transactions and using unused transmission capacity more efficiently. In the existing bilateral market, buyers and sellers have to find each other. The SEEM will increase efficiencies by using an electronic algorithm-based

wholesale energy trading platform to match willing buyers and sellers in the Southeast region who are already able to transact under existing power sales agreements and authorizations. These existing power sales agreements or "Enabling Agreements," as defined in Section 1.1 of the Platform Agreement, are bilateral agreements that provide for energy exchanges between a seller and a buyer and that, for sellers that are public utilities, have been entered into pursuant to such seller's market-based rate authority.

Neither the SEEM's operation nor the Platform Agreement replaces or changes existing federal Balancing Authority ("BA") or Transmission Provider reliability requirements. The BAs will retain existing functions and remain responsible for maintaining reliability. The SEEM does not replace or impact any bilateral markets or existing agreements. Finally, the SEEM has no impact on the Joint Dispatch Agreement or the As-Available Capacity Sales Agreement approved in Docket 2011-158-E.

Sincerely,

Heather Shirley Smith

Heather Shirley Smith

Attachment

cc: Ms. Nanette Edwards, Office of Regulatory Staff
Ms. Dawn Hipp, Office of Regulatory Staff
Mr. Jeff Nelson, Office of Regulatory Staff

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December 11, 2020

VIA ELECTRONIC FILING

Ms. Kimberley A. Campbell, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Joint Informational Filing
Company Folders E-7 and E-2

Dear Ms. Campbell:

Please find attached for the Commission's information the proposed Southeast Energy Exchange Market ("SEEM") platform agreement that will reflect Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP, collectively, the "Companies") as individual, signatory members of the SEEM. As described in more detail below, the SEEM platform agreement ("Platform Agreement") establishes a region-wide, automated, intra-hour platform to match buyers and sellers with the goal of more efficient bilateral trading and assumes utilization of unused transmission capacity to achieve cost savings for customers in the Southeast region of the country ("Platform"). The Platform Agreement is being filed for informational purposes only because it is subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission ("FERC") as it relates to interstate transmission service. As explained in more detail below, the Commission is not required to take any action in relation to this filing.

Operation of the SEEM

The SEEM will act as an overlay to the existing bilateral market to increase efficiency and opportunities for wholesale economic energy purchases and sales by creating an automated platform for matching buyers and sellers for 15-minute transactions and using unused transmission capacity more efficiently. In the existing bilateral market, buyers and sellers have to find each other. The SEEM will increase efficiencies by using an electronic algorithm-based wholesale energy trading platform to match willing buyers and sellers in the Southeast region who are already able to transact under existing power sales agreements and authorizations. These existing power sales agreements or "Enabling Agreements," as defined in Section 1.1 of the Platform Agreement, are bilateral agreements

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that provide for energy exchanges between a seller and a buyer and that, for sellers that are public utilities, have been entered into pursuant to such seller's market-based rate authority.

Neither the SEEM's operation nor the Platform Agreement replaces or changes existing federal Balancing Authority ("BA") or Transmission Provider reliability requirements. The BAs will retain existing functions and remain responsible for maintaining reliability. The SEEM does not replace or impact any bilateral markets or existing agreements. Finally, the SEEM has no impact on the Joint Dispatch Agreement, filed by Duke Energy Corporation and Progress Energy Inc., in Docket Nos. E-2, Sub 998 and E-7, Sub 986 on June 22, 2011, as amended and refiled on June 12, 2012, or the As-Available Capacity Sales Agreement between DEC and DEP, accepted for filing under N.C. Gen. Stat § 62-153(a) by Commission order issued March 21, 2017 in Docket Nos. E-2, Sub 1129 and E-7, Sub 1127.

The SEEM Members and Platform Agreement

The Platform Agreement establishes the rules and participation requirements of SEEM members with respect to the proposed common trading platform. SEEM members represent ten BA areas generally located throughout the Southeast region of the United States. The SEEM Platform is, by design, non-discriminatory; while members will fund development of the Platform and have voting rights, any entity that can physically transact in the wholesale market in the region can use the SEEM Platform to transact in the future. As separate and individual members of the SEEM, DEC and DEP are each responsible for their respective membership dues and their respective shares of the SEEM operating costs. Neither DEC nor DEP is responsible for paying the other's membership obligations, and DEC and DEP will in no way exchange payments with each other pursuant to the Platform Agreement.

Procedural Next Steps for the SEEM

Because the Platform Agreement is subject to the exclusive jurisdiction of the FERC, the Companies intend to file it at the FERC for its approval under Federal Power Act Section 205(c), 16 U.S.C. 824(c), on or about December 28, 2020.[1] To prepare for this FERC filing, the Companies reviewed their North Carolina Regulatory Conditions, most recently approved by the Commission in its *Order Granting Motion to Amend Regulatory Conditions*, issued on August 24, 2018, in Docket Nos. E-2, Sub 1095A, E-7, Sub 1100A, and G-9, Sub 682A, to determine if Regulatory Condition (Reg. Con.) 3.1 required an informational advance notice of 15 days to the Commission prior to filing the Platform Agreement at the FERC. Additionally, the Companies reviewed N.C. Gen. Stat. § 62-153 to determine if it required the Companies to file the Platform Agreement at the Commission for review as an affiliate agreement. Reg. Con. 3.1, entitled "Transactions between DEC, DEP, Piedmont, and Other Affiliates," provides in pertinent part that DEC and DEP "shall not engage in *any transactions* with Affiliates or proposed Affiliates

[1] Because the Platform Agreement is *not* an agreement for the wholesale sale of power or jurisdiction, the Members are filing it under FPA Section 205(c) as a contract *related to* jurisdictional transmission service.

without first filing the proposed contracts or agreements memorializing such transactions pursuant to G.S. § 62-153 . . . ." (emphasis added.). N.C. Gen. Stat. § 62-153(a) provides that "[a]ll public utilities shall file with the Commission copies of contracts with any affiliated or subsidiary holding, managing, operating, constructing, engineering, financing or purchasing company or agency, and when requested by the Commission, copies of contracts with any person selling service of any kind." N.C. Gen. Stat. § 62-153(b) further provides that "[n]o public utility shall pay any fees, commissions or compensation of any description whatsoever to any affiliated or subsidiary holding, managing, operating, constructing, engineering, financing or purchasing company or agency for services rendered or to be rendered without first filing copies of all proposed agreements and contracts with the Commission and obtaining its approval."

Neither the Reg. Con. nor N.C. Gen. Stat. § 62-153 apply to this Platform Agreement. Both the Reg. Con. and the general statute apply to affiliate transactions or agreements, and the Platform Agreement does not provide for transactions between DEP and DEC. First, in relevant part, the Reg. Con. defines "Affiliate Contract" as "Any contract or agreement between or among DEC, DEP and Piedmont or between or among any other Affiliate or proposed Affiliate." In this case, DEC and DEP are not contracting with each other; they are both simply signatories to the Platform Agreement and separate, individual members of the SEEM. Furthermore, the terms and conditions of the Platform Agreement itself preclude any such transactions between DEC and DEP. Under the Platform Agreement, a transaction for the purchase and sale of energy using the transaction matching, reservation and tagging functions of the SEEM between participants is an Energy Exchange, which is made pursuant to pursuant to an Enabling Agreement. DEC and DEP are unable to transact with each other through Enabling Agreements because neither DEC nor DEP have the required market-based rate authority to do so. As such, there are no affiliate transactions enabled by the Platform Agreement, and neither DEC nor DEP are paying any fees, commissions, or compensation of any description to each other under the Platform Agreement. Nor is the Platform Agreement a pooling agreement or a wholesale power sales agreement. The Platform Agreement instead represents the members' agreement to develop and operate the SEEM Platform and the agreed-upon rules for how SEEM will match willing buyers and sellers for energy exchange transactions that will utilize otherwise unused transaction capacity. The energy exchange transactions matched via SEEM will ultimately be consummated pursuant to existing bilateral agreements between the buyer and seller.

Because the Platform Agreement is not an affiliate agreement under N.C. Gen. Stat. § 62-153(a) or (b), the Companies respectfully submit that Reg. Con. 3.1 does not apply, and the 15-day informational advance notice is not required. The Companies, however, make this informational filing in an abundance of transparency and caution, should the Commission disagree with their conclusions. If the Commission determines that the Platform Agreement is an affiliate contract required to be filed under N.C. Gen. Stat. § 62-153, the Companies respectfully submit it for informational purposes 15 days in advance of filing it at the FERC and concurrently file it pursuant to N.C. Gen. Stat. § 62-153(a). As noted, DEC and DEP do not transact with each other under this Platform Agreement; accordingly, they do not pay each other any compensation for services rendered. The Platform Agreement is just and reasonable and could not be reasonably construed as an

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effort to divert or conceal the earnings of either DEC or DEP. Therefore, even if the Commission determines that this is an affiliate contract, neither N.C. Gen. Stat § 62-153 nor Reg. Con. 3.1 require it to take any action on this filing.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Kendrick C. Fentress

Kendrick C. Fentress

Enclosure

cc: Dianna Downey (Chief Counsel, Public Staff)

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SOUTHEAST ENERGY EXCHANGE MARKET AGREEMENT

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SOUTHEAST ENERGY EXCHANGE MARKET AGREEMENT

This SOUTHEAST ENERGY EXCHANGE MARKET AGREEMENT (as the same may be amended from time to time in accordance with the terms hereof, the "Agreement"), by and among each of the entities listed on Exhibit A hereto (each entity, a "Party," and collectively, the "Parties"), as that exhibit may be amended from time to time in accordance with the terms hereof, is made, entered into and effective this __ day of ____, 2020. Hereinafter, Parties to this Agreement may be referred to individually as a "Member" and collectively as the "Members."

W I T N E S S E T H

WHEREAS, there is presently no centrally operated electricity market in the southeastern United States and, accordingly, inter-utility electricity transactions presently occur through bilateral transactions;

WHEREAS, Members believe that a voluntary, region-wide, bilateral, automated, intra-hour electric exchange utilizing unreserved transmission capacity of Participating Transmission Providers at a zero-dollar transmission rate will provide value to their customers by creating efficiencies, transparency, and market liquidity;

WHEREAS, Members desire to participate and to permit other entities to participate as Participants in the exchange; and

WHEREAS, the Members believe that the foregoing objectives can be achieved through a joint effort to sponsor and create a common trading platform that facilitates bilateral electricity transactions between and within their respective service territories.

NOW, THEREFORE, the Members, for good and valuable consideration, enter into this Agreement that sets forth their mutual covenants, rights, and obligations for establishing, funding, and participating in the Southeast Energy Exchange Market (defined below).

ARTICLE 1

DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions. The following terms shall have the meaning hereinafter specified:

"Additional Member" has the meaning provided to it in Section 3.2.3.

"Affiliate" has the meaning set forth in 18 C.F.R. § 35.36(9), as amended.

"Affirmative Majority Vote" has the meaning set forth in Section 4.1.5(b).

"Affirmative Supermajority Vote" has the meaning set forth in Section 4.1.5(c).

"Alternate Committee Member" has the meaning set forth in Section 5.9(b).

"Alternate MNEL Value" has the meaning set forth in Section 7.3.1(a).

"Alternate Representative" has the meaning set forth in Section 4.1.7(b).

"Annual Budget" has the meaning set forth in Section 7.2.2.

"Annual Budget Determination Date" has the meaning set forth in Section 7.2.2.

"Annual Meeting" has the meaning set forth in Section 4.4.

"Annual Member Meeting" has the meaning set forth in Section 4.5.

"Authorized Action" has the meaning set forth in Section 6.1.

"Balancing Authority" shall have the meaning set forth in the Southeast EEM Market Rules.

"Balancing Authority Area" shall have the meaning set forth in the Southeast EEM Market Rules.

"Bid" shall have the meaning set forth in the Southeast EEM Market Rules.

"Bid Information" shall have the meaning set forth in the Southeast EEM Market Rules.

"Bidder" shall have the meaning set forth in the Southeast EEM Market Rules.

"Business Day" means each weekday, Monday through Friday, excluding NERC holidays.

"Buyer" shall have the meaning set forth in the Southeast EEM Market Rules.

"Chair of the Membership Board" has the meaning set forth in Section 4.3.2.

"Change in Law" has the meaning set forth in Section 8.6.

"Committee Member" has the meaning set forth in Section 5.1.

"Cooperatives" means those electric membership cooperative Members that serve load, and cooperatives that provide generation, transmission and/or system operations services to electric membership cooperatives that serve load, in each case in the Territory.

"Deadlock Issue" has the meaning set forth in Section 5.7.2.

"Delivery Interval" shall have the meaning set forth in the Southeast EEM Market Rules.

"Disaggregated Utility" means multiple entities of a disaggregated generation/transmission/system operations utility system.

"Effective Date" has the meaning set forth in Section 8.4.1.

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"Enabling Agreement" means a bilateral agreement for the purchase and sale of Energy that provides for Energy Exchanges between a Seller and a Buyer and that, for Sellers that are Public Utilities and require authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under Section 205 of the FPA, has been entered into pursuant to such Seller's market-based rate authority.

"Energy" means electric energy delivered as three-phase alternating current.

"Energy Exchange" means a transaction for the purchase and sale of Non-Firm Energy using the transaction matching, reservation and tagging functions of the Southeast EEM between Participants pursuant to an Enabling Agreement and in conformance with the requirements of the Southeast EEM Market Rules.

"Enrollment Period" has the meaning set forth in Section 3.2.3.

"FERC" means the Federal Energy Regulatory Commission or any successor to its rights and obligations under Part II of the FPA.

"FPA" means the Federal Power Act, as amended.

"Good Utility Practice" shall have the meaning set forth in the Southeast EEM Market Rules.

"Governmental Action Withdrawal Date" has the meaning set forth in Section 8.6.

"Governmental Entity" means any federal, state, county, municipal, local or foreign government or entity or any legislature, agency, bureau, branch, department, division, commission, court, tribunal, magistrate, justice, arbitrator, multi-national organization, quasi-governmental body, or other similar recognized organization or body of any federal, state, county, municipal, local, or foreign government or any enforcement authority or other similar recognized organization or body exercising similar powers or authority, including FERC, any public utility commission or public service commission or similar authority, but excluding in each case, any Member acting in its capacity as a Member hereunder and not otherwise in a governmental capacity.

"Governmental Utility" means any electric utility located in the Territory that is owned, operated or controlled by the United States, or any state or commonwealth included in the Territory, any political subdivision of a state or commonwealth included in the Territory, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing.

"Interest Rate" means the lesser of (i) the per annum rate of interest announced from time to time by Citibank, N.A. (or a suitable replacement specified by the Operating Committee) as its "prime rate" for commercial loans effective on the date payment is due as established from time to time by such bank, plus two percent (2%), or (ii) the maximum lawful rate permitted by applicable Law.

"Investor Owned Utilities" means those investor owned utility Members that serve load in the Territory.

"Jurisdictional Member" means a Member that is a Public Utility.

"Law" means any federal, state or local law, statute, act, rule, code, ordinance, decree, treaty, regulation, order, judgment, legally binding announcement, directive or published interpretation thereof, enacted, issued or promulgated by any Governmental Entity.

"Load Serving Entity" has the meaning set forth in the NERC Rules of Procedure, as approved by FERC.

"Market Auditor" means an independent entity engaged by the Southeast EEM Agent to perform the scope of responsibilities identified in Section 10.2 and in the Southeast EEM Market Rules.

"Material Vendor Contract" means an agreement between the Southeast EEM Agent, on behalf of the Members, and any vendor or supplier that, together with all other such agreements with such vendor or supplier and its Affiliates, involves aggregate consideration payable by the Members.

"Member" or "Members" has the meaning set forth in the preamble, except that to the extent any of the Members have not executed this Agreement at the time that it is filed with FERC, such Member may execute this Agreement no later than thirty (30) days after the Effective Date. Thereafter, any entity listed on Exhibit A that has not executed the Agreement may seek to become an Additional Member pursuant to Section 3.2.3.

"Member Net Energy for Load" means, except as modified pursuant to Section 7.3.1, the Net Energy for Load calculated for each Member and submitted in NERC's business plan and budget filed annually with FERC in accordance with 18 C.F.R. § 39.4(b), as amended. For purposes of Section 4.1.5 and Section 7.2, (i) a Representative's Member that is an entity part of a Disaggregated Utility, and (ii) any Affiliates of a Representative's Member, shall in each case be assigned the total Net Energy for Load of the associated entities in such Disaggregated Utility or of such Member Affiliates, as applicable.

"Membership Board" means the membership board established pursuant to Article 4.

"MW" means megawatt or megawatts.

"MWh" means megawatt-hour or megawatt-hours.

"NAESB EIR" shall have the meaning set forth in the Southeast EEM Market Rules.

"NERC" means the North American Electric Reliability Corporation or its successor.

"Net Energy for Load" means net generation of an electric system plus Energy received from others less Energy delivered to others through interchange; it includes system losses but excludes Energy required for the storage of Energy at energy storage facilities. For purposes of this definition "electric system" means a Load Serving Entity.

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"Non-Firm Energy" shall have the meaning set forth to it in the Southeast EEM Market Rules

"Non-Firm Energy Exchange Transmission Service" shall have the meaning set forth in the Southeast EEM Market Rules.

"Non-Firm Energy Exchange Transmission Service Agreement" means an agreement for the provision of Non-Firm Energy Exchange Transmission Service between a Participant and a Participating Transmission Provider, as provided in such Participating Transmission Provider's Tariff, as any such agreement may be updated from time to time.

"Non-Jurisdictional Member" means a Member that is not a Public Utility.

"OATI webRegistry" shall have the meaning set forth in the Southeast EEM Market Rules.

"Offer" shall have the meaning set forth in the Southeast EEM Market Rules.

"Offer Information" shall have the meaning set forth in the Southeast EEM Market Rules.

"Offer Price" shall have the meaning set forth in the Southeast EEM Market Rules.

"Offeror" shall have the meaning set forth in the Southeast EEM Market Rules.

"Operating Committee" means that committee established pursuant to Article 5.

"Operating Costs" shall mean dues, costs, expenses and other payment obligations assessed pursuant to this Agreement, or other fees or liabilities that may be imposed by the Membership Board or in accordance with the Southeast EEM Market Rules that arise under this Agreement. For the avoidance of doubt, Operating Costs includes fees, costs and expenses incurred by the Southeast EEM Agent in performing its duties hereunder and the cost of employing third party vendors by the Southeast EEM Agent regardless of whether such costs are billed to the Members through the Southeast EEM Agent, the Southeast EEM Administrator, a third party or directly by such vendors.

"Other Court/Governmental Entity Action" has the meaning set forth in Section 8.6.

"Participant" shall have the meaning set forth in the Southeast EEM Market Rules.

"Participant Agreement" has the meaning set forth in Section 3.3.

"Participating Transmission Provider" means a transmission provider that is providing Non-Firm Energy Exchange Transmission Service.

"Popular Vote" has the meaning set forth in Section 4.1.5(a)(i).

"Public Utility" has meaning set forth in Section 201 of the FPA.

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"Record Date" means the date upon which FERC accepted the most recent annual Business Plan/Budget, including Net Energy for Load values, filed by NERC pursuant to the requirements of 18 C.F.R. § 39.4, as amended.

"Regulatory Filing" means any filing or submission made with or to a Governmental Entity.

"Related Parties" has the meaning set forth in Section 9.1.

"Reliability Obligations" has the meaning set forth in Section 11.2.

"Representative" has the meaning set forth in Section 4.1.2(a).

"Representative Losses" has the meaning set forth in Section 6.5.

"RUS" means the Rural Utilities Service, or its successor.

"Secretary" has the meaning set forth in Section 4.3.3.

"Sector" means individually and collectively, the Investor Owned Utilities, Cooperatives and Governmental Utilities.

"Seller" shall have the meaning set forth in the Southeast EEM Market Rules.

"SERC" has the meaning set forth in Section 11.2.

"Significant Matters" means (i) any amendment to this Agreement (excluding updates to Exhibit A solely to update notice information pursuant to Section 16.8), including but not limited to the Southeast EEM Market Rules, (ii) the appointment, removal, substitution and replacement of the Southeast EEM Agent and/or the Southeast EEM Administrator and the approval of, and any amendment or extension of, the agreement(s) between the Southeast EEM Agent (on behalf of the Members, including the Southeast EEM Agent Scope) and/or the Southeast EEM Administrator, (iii) the development of, or any material modification to, the Southeast EEM Algorithm or the Southeast EEM System, (iv) the appointment, removal, substitution and replacement of the Market Auditor, and any amendment or extension of the agreement(s) between the Southeast EEM Agent (on behalf of the Members) and the Market Auditor that would modify the scope set forth in Section 10.2.1, (v) any other contract or writing that obligates any Member to pay two hundred thousand dollars ($200,000) or more in a calendar year in excess of such Member's allocated share of costs as set forth in the Annual Budget, (vi) the submission of any Regulatory Filing on behalf of the Members, provided that (a) no Member can be compelled to join any Regulatory Filing, and (b) no Member can be compelled to take any action that in the reasonable view of such Member would jeopardize its jurisdictional status, (vii) the sale of all or substantially all of the property held by the Southeast EEM Agent (if any) for the benefit of the Southeast EEM System, or (viii) pursuant to Section 4.2.2, the (A) suspension of a Member's voting rights, (B) removal of a Member from any committee appointment, and (C) suspension of any Member's access to the Southeast EEM System.

"Sink" shall have the meaning set forth in the Southeast EEM Market Rules.

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"Source" shall have the meaning set forth in the Southeast EEM Market Rules.

"Southeast EEM Administrator" means that entity hired by the Southeast EEM Agent, on behalf of the Membership Board acting in its capacity on behalf of the Members, to operate the Southeast EEM System from day to day.

"Southeast EEM Administrator Agreement" means that certain agreement by and between the Southeast EEM Administrator and Southeast EEM Agent (in its capacity as agent for the Members), which agreement sets forth the rights and obligations of the Southeast EEM Administrator, as may be amended from time to time in accordance with this Agreement.

"Southeast EEM Agent" means that entity designated by the Membership Board from time to time, which has certain limited rights and responsibilities under this Agreement as expressly set forth in Article 6 below.

"Southeast EEM Agent Scope" has the meaning set forth in Section 6.1.

"Southeast EEM Algorithm" shall have the meaning set forth in the Southeast EEM Market Rules.

"Southeast EEM Commencement Date" means the date upon which the Southeast EEM commences operation.

"Southeast EEM Order" has the meaning set forth in Section 8.6.

"Southeast EEM Manuals" shall have the meaning set forth in the Southeast EEM Market Rules.

"Southeast EEM Market Rules" means the Rules of the Southeast Energy Exchange Market as set forth in Appendix B, as may be amended from time to time pursuant to Section 4.1.9.

"Southeast Energy Exchange Market" or "Southeast EEM" means the Territory-wide, automated, intra-hour electric energy exchange operated by means of the Southeast EEM System and utilizing Non-Firm Energy Exchange Transmission Service pursuant to the terms and conditions of this Agreement.

"Southeast EEM System" means the Southeast EEM Algorithm and any ancillary or supporting software solutions that (i) automatically matches Bids and Offers among Participants for the next Delivery Interval during which the wholesale sale of Non-Firm Energy will be sold by the Seller and the purchase of the Non-Firm Energy will be purchased by the Buyer to serve load in the Territory and (ii) automatically reserves and tags Non-Firm Energy Exchange Transmission Service.

"Southeast EEM System Interface" shall have the meaning set forth in the Southeast EEM Market Rules.

"Stakeholders" means interested state commissions, customers, interested future Southeast EEM Market Members or Participants, public interest groups or any other interested parties.

"Tariff" means a Participating Transmission Provider's FERC-jurisdictional Open Access Transmission Tariff, non-jurisdictional transmission tariff or non-jurisdictional transmission service guidelines, as applicable.

"Tariff Filings" has the meaning set forth in Section 8.3.

"Territory" means, collectively, the areas served by the Participating Transmission Providers, which as of the Effective Date includes the Balancing Authority Areas operated by the following Balancing Authorities: Associated Electric Cooperative, Inc.; Louisville Gas and Electric Company and Kentucky Utilities Company; Tennessee Valley Authority; Duke Energy Progress (f/k/a Carolina Power and Light Company); Duke Energy Carolinas; South Carolina Electric & Gas Company (n/k/a Dominion Energy South Carolina, Inc.); Santee Cooper; Southern Company; and Power South Energy Cooperative. A current description of the Territory shall be maintained on the Southeast EEM System Interface.

"Voluntary Withdrawal Date" has the meaning set forth in Section 4.2.1.

"Withdrawal Date" means a Voluntary Withdrawal Date or a Governmental Action Withdrawal Date, as applicable.

1.2 Rules of Construction. The capitalized terms listed in this Article 1 shall have the meanings set forth herein whenever the terms appear in this Agreement, whether in the singular or the plural or in the present or past tense. Other terms used in this Agreement but not listed in this Article 1 shall have meanings defined herein or by NERC and the Tariff of each Participating Transmission Provider or, if not so defined, shall have meanings as commonly used in the English language. In the event of a conflict regarding a defined term contained herein and the provisions of a Tariff or NERC rules, the provisions set forth by the applicable Tariff and NERC rules shall take precedence over the defined terms set forth in this Agreement. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings. In addition, the following rules of interpretation shall apply:

The masculine shall include the feminine and neuter.

References to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or exhibits of this Agreement.

References to "days" that are not specifically defined as "Business Days" shall be calendar days, which term includes every day on the calendar including weekends and holidays.

The Exhibits and Appendices attached hereto are incorporated in and are intended to be part of this Agreement; provided, however, that in the event of a conflict between the terms of any Exhibit and the terms of this Agreement, the terms of this Agreement shall take precedence.

This Agreement was negotiated and prepared by all Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

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Unless expressly provided otherwise in this Agreement, where the Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, except in each case that the foregoing shall not apply to any action of a Party under Article 11.

Use of the words "include" or "including" or similar words shall be interpreted as "including but not limited to" or "including, without limitation."

ARTICLE 2

ESTABLISHMENT OF SOUTHEAST EEM AND ADMINISTRATION

2.1 The Members shall cause the establishment and operation of the Southeast EEM System as set forth herein and administered via the Southeast EEM System Interface or such other protocol as determined by the Membership Board, to facilitate the matching of Sellers with Buyers for the purpose of entering into Energy Exchanges.

2.2 The Southeast EEM Administrator shall operate the Southeast EEM System in accordance with the Southeast EEM Market Rules for the purpose of matching Bids and Offers for the four (4) fifteen (15) minute increments in every hour of every day, including but not limited to Business Days, weekends, and NERC holidays.

2.3 As will be set forth in the Southeast EEM Administrator Agreement, the Southeast EEM Administrator will be primarily responsible for: (i) the on-going functions of the Southeast EEM System and overseeing and/or performing the operation and maintenance services necessary to allow the Southeast EEM System to operate in a reliable manner; (ii) the protection and safeguarding of data submitted to and transmitted from the Southeast EEM System; (iii) limiting access to the Southeast EEM System to Participants; and (iv) maintaining open communications by and among the Southeast EEM Administrator, Participants and the Southeast EEM Agent. For avoidance of doubt, the Membership Board, pursuant to Article 4, may decide to engage one or more third parties to perform the responsibilities of the Southeast EEM Administrator.

2.4 All Bid Information and Offer Information submitted to the Southeast EEM System shall be used by the Southeast EEM Administrator only for operation, maintenance, and the on-going functions of the Southeast EEM System or as requested by the Market Auditor, in each case in accordance with this Agreement, the Southeast EEM Market Rules and applicable Law.

ARTICLE 3

MEMBERSHIP AND PARTICIPATION

3.1 Each Member shall comply with all applicable rules, policies, guidelines, or other standards or requirements set forth in this Agreement and as may otherwise be required by the Membership Board or applicable Law.

3.2 Member Criteria.

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3.2.1 To be a Member of the Southeast EEM, an entity must be: (i) a Load Serving Entity located in the Territory; (ii) an association, Cooperative or Governmental Utility that is a Load Serving Entity located in the Territory; or (iii) an association, Cooperative or Governmental Utility created for the purpose of providing service that includes Energy to a Cooperative or governmental Load Serving Entity (or the Load Serving Entities being served by an association, Cooperative or Governmental Utility) located in the Territory. The Tariff of any Member who provides transmission service must contain Non-Firm Energy Exchange Transmission Service provisions for those Energy Exchanges that seek to utilize such Member's transmission system.

3.2.2 If an entity and one or more of its Affiliates are Members, or if multiple entities of a Disaggregated Utility are Members, then only one entity from the group of entities (including any subsidiaries, affiliates or divisions thereof) may have a Representative on the Membership Board, and for the sake of clarity, for all purposes hereunder, such Disaggregated Utility shall be counted as a single Member.

3.2.3 An entity that satisfies the criteria set forth in this Agreement for qualification and admission as a Member, as determined by the Membership Board, shall be eligible to become a Member during the period between July 1st and September 30th of each calendar year (the "Enrollment Period") and may become an additional Member (an "Additional Member") effective as of the first day of the following calendar year in which such entity satisfies the Member criteria set forth in Section 3.2 after executing this Agreement or a joinder hereto in the form of Exhibit B (the "Joinder") that is countersigned by the Southeast EEM Agent, submitting a duly executed copy to the Secretary and the Southeast EEM Administrator, and upon payment of all applicable fees, dues and contributions as specified or authorized in Article 7. For the avoidance of doubt, an entity seeking to become an Additional Member shall be bound by the terms of this Agreement on the date such entity executes a Joinder that is countersigned by the Southeast EEM Agent.

3.3 Participant Criteria. To become a "Participant," an entity must (i) meet all requirements of being a Participant as set forth in the Southeast EEM Market Rules, and (ii) execute a Participant Agreement in the form attached hereto as Appendix A (the "Participant Agreement") which agreement shall, among other things, contractually bind such entity to comply with the Southeast EEM Market Rules.

3.4 Participating Transmission Providers. Prior to the Southeast EEM Commencement Date, or, for any Participating Transmission Provider offering service after such commencement date, prior to the date upon which it commences providing Non-Firm Energy Exchange Transmission Service, Participating Transmission Providers shall amend their Tariffs to include the provision of Non-Firm Energy Exchange Transmission Service and, if required by Law, shall obtain acceptance of such provisions from FERC or such other Governmental Entity(ies) having jurisdiction over such Tariff. Participating Transmission Service Providers shall take such other actions and provide such information to the Southeast EEM Administrator as required by the provisions of the Southeast EEM Market Rules or as otherwise reasonably requested by the Southeast EEM Administrator in order to operate the Southeast EEM.

3.5 Member Standard of Conduct. Members shall not provide any non-public transmission function information they receive by virtue of their participation in the Southeast EEM

to any of their marketing function employees or provide any undue preference through the sharing of non-public market information they receive by virtue of their participation in the Southeast EEM to their marketing function employees. For purposes of this Section 3.5, marketing function employees of a Member's Affiliates shall be deemed marketing function employees of the Member.

ARTICLE 4

GOVERNANCE

4.1 Membership Board.

4.1.1 Power and Qualification of the Membership Board. Except as set forth in Article 5, all business of the Southeast EEM System and performance of any agreements entered into or otherwise assumed for the benefit of the Members shall be managed under the direction of the Membership Board.

4.1.2 Number of Representatives. Subject to the limitations set forth in Section 3.2.2:

(a) The Membership Board shall consist of one (1) representative for each Member (each, a "Representative").

(b) Each Member shall appoint one (1) Representative to serve until such Representative is replaced by such Member. No Member shall be permitted to have more than one (1) Representative on the Membership Board.

4.1.3 Method of Selecting or Removing Representatives; Vacancies.

(a) A Representative shall be removed or replaced solely at the discretion of the Member that originally appointed such Representative; provided, however, that each Member must at all times have a Representative in place to vote on matters pursuant to Section 4.1.5.

(b) All Representative vacancies, occurring for any reason, shall be filled by the Member who appointed such Representative.

4.1.4 Resignations. A Representative may resign at any time by delivering written notice to the Member who appointed such Representative, the Membership Board and the Southeast EEM Administrator. Such resignation shall take effect when such notice is delivered to the applicable Member, unless the notice specifies a later effective date.

4.1.5 Quorum of Representatives and Action by the Membership Board; Voting.

(a) The votes of the Members shall be held by the Representatives and shall be weighted with each Representative holding:

(i) one (1) vote for each Representative of the Southeast EEM System (the "Popular Vote"); and

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(ii) a number of votes (the "Net Energy for Load Vote") equal to the following calculation:

Net Energy for Load Vote = (MNEL/ANEL)

Where:

MNEL = such Member Net Energy for Load of the Representative's Member, Affiliates of such Member and those related entities part of a Disaggregated Utility as of the Record Date; and

ANEL = the sum of the Member Net Energy for Load for all Members as of the Record Date.

(b) Subject to Section 4.1.7(c), attendance by a majority of the holders of each of the aggregate Popular Votes and the Net Energy for Load Votes shall constitute a quorum for the transaction of business. Except for Significant Matters, the actions of the Membership Board shall pass by the affirmative vote of the Representatives present at a meeting at which a quorum is present that constitutes (i) more than fifty percent (50%) of the Popular Vote of the Representatives in attendance, and (ii) more than fifty percent (50%) of the Net Energy for Load Vote of the Representatives in attendance; provided that more than fifty percent (50%) of the Net Energy for Load Vote of the Representatives in attendance must be comprised of MNEL from three (3) or more Representatives (conditions (i) and (ii) together, the "Affirmative Majority Vote").

(c) Subject to Section 4.1.7(c), the actions of the Membership Board to decide on matters related to the Significant Matters shall pass by the affirmative vote of the Representatives present at a meeting at which a quorum is present that constitutes (i) more than fifty percent (50%) of the Popular Vote of the Representatives in attendance and (ii) more than sixty-seven percent (67%) of the Net Energy for Load Vote of the Representatives in attendance; provided that more than sixty-seven percent (67%) of the Net Energy for Load Vote of the Representatives in attendance must be comprised of MNEL from three (3) or more Representatives (conditions (i) and (ii) together, the "Affirmative Supermajority Vote").

(d) The number of Net Energy for Load Vote of each Representative shall be adjusted each year following the Enrollment Period and prior to the start of the next calendar year to reflect the revision to such proportions resulting from the inclusion of Additional Members (if any) when determining Net Energy for Load Vote for each Representative. Notwithstanding anything to the contrary herein, a Member's right to have its Representative vote or be included in a Representative's Net Energy for Load Vote may be suspended pursuant to Section 4.2.2 during any period in which such Member is delinquent in the payment of any of the dues or costs and expenses allocated to such Member in accordance with Article 7. If a Member's Representative's right to vote has been suspended, the Membership Board shall recalculate the Net Energy for Load Vote of each other Representative excluding such suspended Member's Representative, and each other calculation required by this Section 4.1.5 and Article 4 (including for purposes of determining if there is a quorum and whether there is an Affirmative Majority Vote

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and Affirmative Supermajority Vote, as applicable) shall be determined excluding such suspended Member's Representative.

4.1.6 Meetings of the Membership Board. Meetings of the Membership Board, unless otherwise provided in this Agreement, may be called (i) by the Chair of the Membership Board, or (ii) by a written consent delivered to the Membership Board that is executed by a majority of the holders of each of the aggregate Popular Votes and the Net Energy for Load Votes. Meetings of the Membership Board, regular or special, may be held at such place within the Territory and upon such notice as may be prescribed by resolution of the Membership Board.

4.1.7 Notice of Meetings of Representatives.

(a) The Chair of the Membership Board, or a Representative directed by the Chair of the Membership Board, shall provide written notice by electronic mail (and shall confirm receipt of such notice by requesting a return receipt) of each Membership Board meeting to all Representatives. Such notice shall state the date, place, hour and purpose or purposes of the meeting, including any Significant Matters to be discussed, and shall be delivered by a nationally recognized overnight courier service to each Representative's usual place of business as recorded in the Secretary's records, or delivered by internet electronic mail (with return internet electronic mail from the recipient acknowledging receipt) sent to the internet electronic mail address for such Representative as recorded in the Secretary's records, not less than seven (7) Business Days prior to the date of the meeting.

(b) Any Member may designate, by submitting a written communication to the Chair of the Membership Board, an alternate to act on behalf of the Representative ("Alternate Representative"). Any reference herein to "Representative" shall be deemed a reference to the Alternate Representative where applicable.

(c) Notwithstanding anything to the contrary set forth herein, the Membership Board shall only vote on matters set forth in a duly delivered notice pursuant to this Section 4.1.7; provided, however that the Membership Board may (i) discuss any and all matters within the scope of the Membership Board's duties at any duly constituted meeting of the Membership Board, and/or (ii) vote upon any matter within the scope of the Membership Board's duties that is not set forth in a duly delivered notice pursuant to this Section 4.1.7 if all Representatives are present at such meeting of the Membership Board and such matter is approved in accordance with the applicable voting requirements set forth in Section 4.1.5.

4.1.8 Action by Representatives in Lieu of a Meeting; Participation in Meetings by Conference Telephone.

(a) Unless otherwise restricted by this Agreement, any action required or permitted to be taken at a meeting of the Membership Board may be taken without a meeting if the action is evidenced by written consent describing the action taken, signed by all of the Representatives. The written consents and the resolutions thereto by the Representatives shall be filed with the minutes of the Membership Board or filed with the records maintained by the Secretary reflecting the action taken. Action taken under this Section 4.1.8(a) becomes effective when the last Representative signs the consent, unless the consent specifies a different effective

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date, in which event the action taken is effective as of the date specified therein, provided the consent states the date of execution by each Representative.

(b) The Representatives may participate in any meeting of the Membership Board or of a committee thereof by means of conference telephone or by any means of communication by which all Representatives participating may hear one another during the meeting; all meetings shall be available for participation via such means. A Representative participating in a meeting by such means is deemed to be present in person at the meeting.

4.1.9 Powers Exclusive to the Membership Board.

(a) The following matters are reserved to and may only be addressed by the Membership Board:

(i) all Significant Matters;

(ii) the creation and appointment of committees and officers pursuant to Section 4.3;

(iii) the establishment and amendment of Annual Budgets;

(iv) the establishment and modification of billing processes for Operating Costs;

(v) the approval of Southeast EEM Manuals or amendments to Southeast EEM Manuals proposed by the Operating Committee;

(vi) the approval and establishment of the Southeast EEM Commencement Date following the satisfaction of the conditions set forth in Section 8.4.2;

(vii) all Deadlock Issues; and

(viii) the authorization of the Southeast EEM Agent to execute, transfer or terminate Participant Agreements.

(b) Any changes, modifications or amendments to this Agreement agreed to by the Membership Board as provided herein shall be submitted to the required Governmental Entities for approval or acceptance and the orders on such submissions shall be deemed to be and treated as Southeast EEM Orders for purposes of Article 8.

4.2 Removal or Withdrawal of Members. Upon withdrawal, suspension or removal of a Member as set forth below, such Member shall no longer be entitled to exercise the voting power provided under this Agreement, shall be automatically removed from any committee appointments, and shall not be entitled to any other rights as a Member hereunder. Notwithstanding the foregoing, (i) a Member that withdraws or is removed or is suspended by the Membership Board or is no longer a Member during a calendar year shall remain liable for all dues, costs and expenses and other payment obligations as provided in Section 4.2.1 and Section 4.2.4, and (ii) nothing in this Section 4.2 shall act to prevent a Member who is no longer a Member, but is in compliance with

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all surviving obligations under this Agreement, from becoming a Participant; provided it has met the criteria for a Participant set forth in the Southeast EEM Market Rules. Any Member that withdraws or is removed by the Membership Board or is no longer a Member during a calendar year shall pre-pay all amounts owed by such Member under any Material Vendor Contract that requires the acceleration or prepayment of sums owed in the event of a Member's withdrawal.

4.2.1 Except as set forth in Section 8.5, Section 8.6 and Section 8.7, any Member shall have the right to withdraw from the Southeast EEM System (and a Participating Transmission provider shall take all necessary actions to withdraw the provisions for Non-Firm Energy Exchange Transmission Service from its Tariff) by providing at least (i) thirty (30) days advance written notice to the Membership Board in the case of any Member that is not a Balancing Authority or Participating Transmission Provider and (ii) at least ninety (90) days advance written notice to the Membership Board in the case of any Member that is a Balancing Authority or Participating Transmission Provider (the effective date of such withdrawal, in the case of clause (i) or (ii), as applicable, the "Voluntary Withdrawal Date"). A withdrawing Member shall continue to be liable for (A) all Operating Costs allocated to and owed by the withdrawing Member at the time that it delivered its notice of withdrawal, and (B) its allocated share of future Operating Costs as provided in Section 4.2.4; provided, however, that for the sake of clarity and notwithstanding anything to the contrary herein, the withdrawing Member shall not be responsible for any new Operating Costs first approved and incurred after the date such Member provides written notice of its intent to withdraw, and a withdrawing Member that is also a Participating Transmission Provider shall have no obligation to provide Non-Firm Energy Exchange Transmission Service following the Voluntary Withdrawal Date.

4.2.2 If a Member fails to cure nonpayment of any financial obligations related to the Southeast EEM (including undisputed amounts payable and any other amounts due to any third parties as directed by the Membership Board or pursuant to the Southeast EEM Market Rules) within ten (10) Business Days after receipt of notice by the Operating Committee of such nonpayment, the Membership Board shall have the right in its discretion to: (i) suspend such Member's voting rights, (ii) remove such Member from any committee appointments and (iii) suspend such Member's access to the Southeast EEM System.

4.2.3 The Membership Board may remove a Member for any of the following reasons: (i) failure to comply with this Agreement, (ii) repeated failure to consummate valid Energy Exchanges resulting from Bids or Offers submitted by a Member, arranged by or through the Southeast EEM System in accordance with and subject to the Southeast EEM Market Rules or the Southeast EEM Manuals; and (iii) failure to comply with the standards, rules, procedures or other requirements for participation in the Southeast EEM System, as established and modified from time to time by the Operating Committee.

4.2.4 Any Member that provides notice to withdraw in accordance with Section 4.2.1, Section 8.5, Section 8.6 or Section 8.7 or who is otherwise removed pursuant to Section 4.2.3 shall remain liable for its share of all costs and expenses in accordance with Article 7. If such Member withdraws prior to the Annual Budget Determination Date, such Member shall only be responsible for the costs and expenses allocated to such Member for the year in which such Member withdraws. If such Member withdraws after the Annual Budget Determination Date, such Member shall (i) be responsible for the costs and expenses allocated to such Member pursuant to Section

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7.2.2 for the year in which such Member withdraws and the following year for which the Annual Budget has already been determined, and (ii) pre-pay all amounts owed by such Member under any Material Vendor Contract that requires the acceleration or prepayment of sums owed in the event of a Member's withdrawal.

4.3 Committees and Officers.

4.3.1 An Affirmative Majority Vote may appoint such committees or officers as the Membership Board deems necessary or desirable to carry on the business of the Southeast EEM System and may delegate to any such committee or officer such authority to act on behalf of the Membership Board. Each officer shall hold office until its successor is designated by an Affirmative Majority Vote. Any officer may resign at any time upon written notice to the Membership Board. Any officer may be removed by an Affirmative Majority Vote at any time, with or without cause. A vacancy in any officer position shall be filled at the discretion of, and by, an Affirmative Majority Vote.

4.3.2 The Membership Board shall appoint a chair of the Membership Board (the "Chair of the Membership Board") who shall be responsible for calling and overseeing all meetings of the Membership Board, and shall perform such duties and have such additional powers as an Affirmative Majority Vote shall designate.

4.3.3 The Membership Board shall appoint a secretary of the Membership Board (the "Secretary") who shall be responsible for overseeing the maintenance of the books and records of the Membership Board and its Members and shall perform such duties and have such additional powers as an Affirmative Majority Vote shall designate.

4.4 Annual Meeting of Participants and Stakeholders. The Membership Board shall hold an annual meeting of Participants and Stakeholders (the "Annual Meeting") at a time determined by the Membership Board that is reasonably proximate to (either before or after) May 1st of each year. The Southeast EEM Administrator shall provide written notice of the Annual Meeting to all Participants. Such notice shall state the date, place, hour and purpose or purposes of the meeting and shall be delivered by a nationally recognized overnight courier service to each Participant's usual place of business as recorded in the Southeast EEM Administrator's records, or such notice shall be delivered by internet electronic mail (with return receipt requested for purposes of confirming receipt) sent to the electronic mail address for such Participant as recorded in the Southeast EEM Administrator's records, not less than seven (7) Business Days prior to the date of the Annual Meeting. In addition, the Southeast EEM Administrator shall publicly post the notice of the Annual Meeting, including the date, place and time of such Annual Meeting, on the Southeast EEM System Interface or other public website administered for the Southeast EEM, not less than seven (7) Business Days prior to the date of the Annual Meeting. The Participants and Stakeholders may participate in Annual Meetings by means of conference telephone or by any means of communication by which all Participants and Stakeholders participating may hear one another during the meeting, and all Annual Meetings shall be available for participation via such means.

4.5 Annual Meeting of Members. The Membership Board shall hold an annual meeting attended only by Members (the "Annual Member Meeting") at a time determined by the Membership Board that is reasonably proximate to (either before or after) October 30th of each year.

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The Secretary shall provide written notice of the Annual Member Meeting to, and confirm actual receipt of such notice by, all Members. Such notice shall state the date, place, hour and purpose or purposes of the meeting and shall be delivered by nationally recognized overnight courier service to each Member's usual place of business as recorded in the Secretary's records, or delivered by internet electronic mail (with return internet electronic mail from the recipient acknowledging receipt) sent to the internet electronic mail address for such Member's Representative as recorded in the Secretary's records, not less than seven (7) Business Days prior to the date of the Annual Member Meeting. The Members may participate in the Annual Member Meeting by means of conference telephone or by any means of communication by which all Members participating may hear one another during the meeting, and all meetings shall be available for participation via such means.

ARTICLE 5

OPERATING COMMITTEE

5.1 Power and Qualification of the Operating Committee. Except with respect to matters specifically reserved to the Membership Board pursuant to Section 4.1.9, the Members hereby agree and hereby appoint the Operating Committee to supervise the day-to-day operation of the Southeast EEM System, with each individual member of the Operating Committee referred to as a "Committee Member". The Operating Committee shall be responsible for developing and maintaining the Southeast EEM Manuals for approval by the Membership Board.

5.2 Number of Committee Members. The Operating Committee shall consist of four (4) Committee Members, as determined by this Agreement.

5.3 Election and Term of Committee Members; Appointment of Chair.

5.3.1 Except as provided in this Agreement, the Members of each Sector shall elect the Committee Members as provided in Section 5.4 at the Annual Member Meeting. The Committee Members shall be allocated by Sectors: (a) the Members comprising Investor-Owned Utilities shall elect two (2) Committee Members; (b) the Members comprising Cooperatives shall elect one (1) Committee Member; and (c) the Members comprising Governmental Utilities shall elect one (1) Committee Member. Each Committee Member shall be entitled to cast one (1) vote. Notwithstanding the foregoing, no Member shall be permitted to have more than one (1) representative serve on the Operating Committee. Each Committee Member's term shall commence upon election and continue until the earlier of such Committee Member's resignation or the date of the next Annual Member Meeting and the election of such Committee Member's successor.

5.3.2 The properly elected Committee Members shall determine which Committee Member shall be the chair of the Operating Committee by the majority approval of the Committee Members. The chair of the Operating Committee may be removed or replaced with or without cause at any time upon the majority approval of the Committee Members.

5.4 Method of Selecting or Removing Committee Members. Each Sector may establish the method and criteria for electing or appointing the Committee Member(s) of such Sector as set

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forth in Section 5.3 and for selecting or removing the Committee Member or Committee Members elected or appointed by such Sector and shall provide a copy of such method and criteria to the Southeast EEM Administrator as well as any updates thereto. A Committee Member shall be deemed properly appointed by the applicable Sector upon delivery to the Southeast EEM Administrator a certificate signed by Members of the Sector with sufficient voting power pursuant to such Sector's criteria to elect such Committee Member. A Sector may remove a Committee Member with or without cause by delivering to the Southeast EEM Administrator a certificate signed by Members of the Sector with sufficient voting power to remove the Committee Members. Such Committee Member's removal shall be effective on the later of the date such certificate is delivered to the Southeast EEM Administrator or date specified in the certificate.

5.5 Vacancies. All Committee Member vacancies, occurring for any reason, shall be filled by the Members of the Sector in which the vacancy occurs, in the same manner as a Committee Member is elected pursuant to Section 5.4. A Committee Member elected or appointed to fill a vacancy shall assume office upon delivery to the Southeast EEM Administrator a certificate signed by Members of the Sector with sufficient voting power to fill the vacancy.

5.6 Resignations. A Committee Member may resign at any time by delivering written notice to the Secretary and to the Members of the Sector which elected or appointed such Committee Member. Such resignation shall take effect when such notice is delivered to the Southeast EEM Administrator, unless the notice specifies a later effective date.

5.7 Quorum of Committee Members and Action by the Operating Committee.

5.7.1 Attendance by at least one (1) Committee Member representing each of the three (3) Sectors shall constitute a quorum for the transaction of business. The act of all the votes of the Committee Members present at a meeting at which a quorum is present shall constitute the action of the Operating Committee.

5.7.2 To the extent that the Operating Committee cannot obtain a unanimous vote on any business or issue properly before the Operating Committee when a quorum is present (the "Deadlock Issue"), then the Operating Committee may, upon the written request of a Committee Member, submit the Deadlock Issue to the Membership Board for final resolution. For purposes of clarity, a vote of the Operating Committee that is held at a meeting for which a quorum is present shall be considered unanimous if at least one (1) Committee Member representing each of the three (3) Sectors is present.

5.8 Meetings of the Operating Committee. Meetings of the Operating Committee may be called (i) by the chair of the Operating Committee, or (ii) by a written consent delivered to the chair of the Operating Committee that is executed by a majority of the Committee Members.

5.9 Notice of Meetings of Committee Members; Member Observation Rights.

(a) The Southeast EEM Administrator shall provide written notice of each Operating Committee meeting to all members of the Operating Committee as well as to all Members. Such notice shall state the date, place and hour of the meeting and shall be delivered by internet electronic mail (with return internet electronic mail from the recipient acknowledging receipt) sent to the internet electronic mail address for such Committee Member and for such

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Member as recorded in the Secretary's records, not less than seven (7) Business Days prior to the date of the meeting. Members who are not Committee Members shall have the right to attend, observe and participate in any discussion at any Operating Committee Meeting, but may not cast a vote.

(b) Any Committee Member unable to attend a meeting may designate, in writing, an alternate from the same Sector as such Committee Member to act on behalf of the Committee Member ("Alternate Committee Member"). Any reference herein to "Committee Member" shall be deemed a reference to the Alternate Committee Member where applicable.

(c) A Committee Member's attendance at or participation in a meeting waives any required notice to him or her of such meeting unless, at the beginning of such meeting or promptly upon his or her arrival, such Committee Member objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(d) A notice shall specify the business to be transacted at, or the purpose of, any meeting of the Operating Committee; provided, however, such notice shall not limit the actions the Operating Committee may take at a meeting.

5.10 Action by Committee Members in Lieu of a Meeting; Meetings by Telephone Conference.

(a) Any action required or permitted to be taken at a meeting of the Operating Committee may be taken without a meeting if at least one (1) Committee Member representing each of the three (3) Sectors consents in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the Committee Members shall be filed with the minutes of the Operating Committee or filed with the records maintained by the Secretary reflecting the action taken. Any action taken under this Section 5.10(a) shall be effective when the last Committee Member signs the consent, unless the consent specifies a different effective date, in which event the action taken is effective as of the date specified therein, provided, the consent states the date of execution by each Committee Member. Such consent shall have the same force and effect as a unanimous vote.

(b) The Committee Members and Members may participate in any meeting of the Operating Committee or of a committee thereof by means of telephone conference or by any means of communication by which all Committee Members and Members participating may hear one another during the meeting, and all meetings shall be available for participation via such means. A Committee Member participating in a meeting by such means is deemed to be present in person at the meeting.

5.11 Liability of Committee Members. The Operating Committee and the Committee Members shall not be liable to any Member for any act done or omitted by Committee Members while acting in good faith and in the exercise of reasonable judgment. The Members shall indemnify the Committee Members (solely in such capacity) and hold them harmless against any loss or expense actually incurred without gross negligence or willful misconduct on the part of the

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Committee Members and arising out of or in connection with the acceptance or administration of their role on the Operating Committee.

ARTICLE 6

APPOINTMENT OF SOUTHEAST EEM AGENT

6.1 Each Member agrees to appoint the Southeast EEM Agent as its representative and as each such Member's true and lawful agent and authorizes the Southeast EEM Agent to act for such Member in accordance with the scope of the Southeast EEM Agent's responsibilities (the "Southeast EEM Agent Scope") as specifically defined by the Membership Board in Appendix C. Each Member grants unto the Southeast EEM Agent only that authority which is granted to the Southeast EEM Agent by the Membership Board under this Agreement and that is necessary to perform the actions required in connection with the development and operation of the Southeast EEM System, and in each case in a manner consistent with the Southeast EEM Agent Scope. Each Member agrees and acknowledges that a third party shall be entitled to rely on any action taken, or the failure to take any action, by the Southeast EEM Agent, on behalf of Members pursuant to and in accordance with this Article 6 (each, an "Authorized Action"), and that each Authorized Action shall be binding on each Member as fully as if such Members had taken such Authorized Action directly. The initial Southeast EEM Agent and any replacement Southeast EEM Agent, as determined by the Membership Board in accordance with Section 4.1.9, must meet any criteria set by the Membership Board from time to time (collectively, the "Southeast EEM Agent Criteria"). Any entity that does not meet the Southeast EEM Agent Criteria may not serve as the Southeast EEM Agent; provided, however, that the Membership Board may, in its discretion, alter or revise the Southeast EEM Agent Criteria.

6.2 Each Member acknowledges and agrees that upon execution of this Agreement, and upon any delivery by the Southeast EEM Agent of any waiver, amendment, agreement, opinion, certificate or other document within the Southeast EEM Agent Scope executed by the Southeast EEM Agent, such Member shall be bound by such documents or action as fully as if such Member had executed and delivered such documents. Each Member shall pay its allocated share of (i) all Operating Costs arising from contracts entered into by the Southeast EEM Agent entered into in accordance with the Southeast EEM Agent Scope, and (ii) fees, costs and expenses incurred by the Southeast EEM Agent in performing its duties hereunder.

6.3 The Southeast EEM Agent may resign at any time upon sixty (60) days written notice to the Membership Board and may be removed at any time with or without cause by the Membership Board pursuant to Section 4.1.9. Upon the resignation of the Southeast EEM Agent pursuant to this Section 6.3 or its removal pursuant to Section 4.1.9, the resigning or removed Southeast EEM Agent shall take or cause to be taken, all actions and do, or cause to be done, or execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the Membership Board may reasonably deem necessary, proper or advisable to transition the rights and obligations of the Southeast EEM Agent to the replacement Southeast EEM Agent, as promptly as practicable or sooner as required by this Agreement, including, without limitation, such actions as are necessary to assign all contracts, agreements or other documents executed on behalf of the Members within the Southeast EEM Agent Scope to the replacement Southeast EEM Agent.

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6.4 For the avoidance of doubt, it is the intent of the Members that the Operating Committee, not the Southeast EEM Agent, be responsible for interfacing and coordinating with third party vendors with regard to the performance of contracts with such vendors. Further, in the event that the Southeast EEM Agent is required to take any ministerial action under such contracts, the Southeast EEM Agent shall only do so at the direction of the Membership Board or Operating Committee and in accordance with the Southeast EEM Agent Scope. The Southeast EEM Agent shall have no right or access to data related to the Southeast EEM beyond what it has as a Member and Participant.

6.5 The Southeast EEM Agent will incur no liability of any kind with respect to any action or omission by the Southeast EEM Agent in connection with the Southeast EEM Agent's role pursuant to this Agreement and any agreements ancillary hereto within the Southeast EEM Agent Scope, except in the event of liability directly resulting from the Southeast EEM Agent's gross negligence or willful misconduct. The Members will indemnify, defend and hold harmless the Southeast EEM Agent from and against any and all losses, liabilities, damages, claims, penalties, fines, forfeitures, actions, fees, costs and expenses (including the fees and expenses of counsel and experts and their staffs and all expense of document location, duplication and shipment) (collectively, "Representative Losses") arising out of or in connection with the Southeast EEM Agent's execution and performance of this Agreement and any agreements ancillary hereto, in each case as such Representative Loss is suffered or incurred; provided, that in the event that any such Representative Loss is finally adjudicated to have been directly caused by the gross negligence or willful misconduct of the Southeast EEM Agent or actions beyond the Southeast EEM Agent Scope, the Southeast EEM Agent will reimburse the Members the amount of such indemnified Representative Loss to the extent attributable to such gross negligence or willful misconduct. In no event will the Southeast EEM Agent be required to advance its own funds on behalf of the Members or otherwise. The Members acknowledge and agree that the foregoing indemnities will survive the resignation or removal of the Southeast EEM Agent or the termination of this Agreement.

ARTICLE 7

BUDGETING AND COST RESPONSIBILITY

7.1 Member Responsibility. Each Member will be assigned and is responsible for its allocated share of Operating Costs and such other dues or fees as assessed by the Membership Board from time to time based on the methodology set forth in Section 7.2. If a Member fails to cure any nonpayment of its allocated share of Operating Costs or any other amount assessed against such Member under this Agreement within ten (10) Business Days after receiving notice from the Operating Committee of such non-payment, such Member may, in the discretion of the Membership Board, lose its right to vote on matters related to this Agreement or to have representation on the Membership Board and any committees unless and until such amounts are paid in full. Any amounts owed that are not paid in accordance with this Agreement shall be delinquent and shall accrue interest at the Interest Rate, such interest to be calculated from the due date to the date the delinquent amount is paid in full.

7.2 Allocation of Costs. Operating Costs, including but not limited to the costs and expenses of the Southeast EEM System, shall be allocated and assessed to each Member based on the following formula, provided that (i) for purposes of a Disaggregated Utility, such Disaggregated

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Utility shall be counted as a single Member for purposes of this calculation and the costs will be allocated among the entities of such Disaggregated Utility according to their direction (which allocation shall not control for any purposes hereunder), and (ii) for purposes of Member Affiliates, the Member Affiliates shall be counted as a single Member for purposes of this calculation and the costs will be allocated among the Member Affiliates according to their direction (which allocation shall not control for any purposes hereunder):

[(1/4)(TC)(1/TNM)] + [(3/4)(TC)(MNEL/ANEL)] = MAC, where:

TC = Total allocable costs.

TNM = the total number of Members.

MNEL = such Member Net Energy for Load of the Representative's Member, Affiliates of such Member and those related entities part of a Disaggregated Utility as of the Record Date.

ANEL = the sum of all the Member Net Energy for Load as of the Record Date.

MAC = Member's allocated costs.

7.2.1 Billing Process. Each Member shall be billed directly by the Southeast EEM Administrator for its allocated share of Operating Costs in accordance with the terms of this Agreement. In the event that the direct billing process described in the foregoing sentence proves to be unworkable for certain Operating Costs, the Membership Board shall use commercially reasonable efforts to (i) require third party vendors to structure all Southeast EEM invoices on an individual Member basis based upon the cost methodology set forth in this Agreement; or (ii) if such third party vendors refuse to provide such individual Member billings services, establish an alternative billing procedure for such Operating Costs (including the engagement of a third party billing service provider) to ensure such invoices are billed on an individual Member basis. The Membership Board shall establish such an alternative billing procedure in a timely manner; provided, however, that a delay in establishing such a procedure shall not eliminate the Members' individual obligations to pay their allocated share of Operating Costs. Nothing in this Section 7.2.1 is intended to modify or diminish the Membership Board's authority to establish or amend billing procedures from time to time.

7.2.2 Annual Budget. On or before October 30th of each calendar year, but in any case no earlier than October 1st of each calendar year, the Membership Board shall set the annual budget for the following calendar year (the "Annual Budget Determination Date"), which budget shall include but not be limited to all projected Operating Costs, including all vendor costs and all costs and expenses associated with the Southeast EEM Agent (the "Annual Budget"). Costs are deemed allocated to each Member as of the Annual Budget Determination Date, but, except as otherwise provided herein, are not payable until such costs are due and payable subject to the applicable agreements concerning such costs.

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7.3 Additional Members. The costs and expenses of the Southeast EEM System allocated to each Member shall be adjusted each year in accordance with Section 7.2 following the Enrollment Period but prior to the Annual Budget Determination Date to reflect any changes in a Member Net Energy for Load valuation or the inclusion of Additional Members in such calculations for the following calendar year.

7.3.1 Submission of Information.

(a) Upon the request of the Secretary or upon a schedule approved by the Membership Board, each Member shall provide its Member Net Energy for Load values, and any other information required for the calculations set forth in Section 4.1.5 and Section 7.2, to the Southeast EEM Administrator and all other Members. If a Member proposes to use a Member Net Energy for Load value that differs from the Net Energy for Load value as provided to NERC by the Record Date (an "Alternate MNEL Value"), such Member shall submit a written request to the Operating Committee at least thirty (30) days prior to the Annual Budget Determination Date requesting the Operating Committee's approval of such Member's Alternate MNEL Value in the upcoming year. The submitting Member's request shall contain (i) an explanation of why the Alternate MNEL Value differs from the Member Net Energy for Load value submitted to NERC, and (ii) all other reasonably necessary information evidencing such Member's calculation of the Alternate MNEL Value. The Operating Committee shall review a Member's request to use an Alternate MNEL Value and shall use commercially reasonable efforts to approve, deny or request additional information regarding such request within fifteen (15) days from the date the Operating Committee receives the request.

(b) If the Operating Committee denies a Member's request to use an Alternate MNEL Value, the Member may, within thirty (30) days of such denial, submit the request to the Membership Board for review, and the Membership Board shall, as soon as reasonably practicable, hold a vote to either uphold or overturn the Operating Committee's denial of the request, as determined by an Affirmative Majority Vote. The requesting Member shall provide to the Membership Board such information reasonably requested by the Membership Board in order to evaluate the Member's request. If the Operating Committee or the Membership Board, as applicable, approves a Member's Alternate MNEL Value, such Alternate MNEL Value shall be used for the calculations set forth in Section 4.1.5 and Section 7.2 in the following calendar year. If the Operating Committee or the Membership Board, as applicable, deny such requesting Member's request to use an Alternative MNEL Value, the Member's Member Net Energy for Load value shall be that Member Net Energy for Load as determined by the Membership Board in accordance with this Agreement; provided, however, that during the pendency of the review of a Member's Net Energy for Load pursuant to this Section 7.3.1 and until such value is finally determined, the requesting Member's Member Net Energy for Load value shall be the Member Net Energy Load value provided by such Member that was approved and used in the most recent calendar year.

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ARTICLE 8

FILINGS WITH GOVERNMENT ENTITIES; EFFECTIVE DATE

8.1 This Agreement is subject to valid Laws, orders, rules and regulations of duly constituted Governmental Entities having jurisdiction. Nothing contained in this Agreement shall be construed as a grant of jurisdiction over any Member by any Governmental Entity not otherwise having jurisdiction by Law.

8.2 Filing With and Approval or Acceptance by Governmental Entities.

8.2.1 Any entity desiring to become a Member that is subject to the jurisdiction of any Governmental Entity from which approval or acceptance of this Agreement or participation in the Southeast EEM is required for such entity to participate in the Southeast EEM shall institute proceedings to obtain such acceptance or approval or shall provide such notice, except as provided in Section 8.2.2 below. All required approvals, acceptances and notices must be received by such entity prior to its participation in the Southeast EEM. The Members shall cooperate in securing all required Governmental Entity approvals or acceptances of this Agreement.

8.2.2 No later than sixty (60) days prior to the proposed Effective Date, the Southeast EEM Agent shall file this Agreement with FERC on behalf of the Jurisdictional Members in accordance with Section 8.2.1 under Section 205(c) of the FPA. Within ten (10) Business Days of the date of such filing, the remaining Jurisdictional Members shall file certificates of concurrence with such filing and the Non-Jurisdictional Members shall file comments in support of such filing.

8.3 On the same date that the Southeast EEM Agent files this Agreement with FERC, the Jurisdictional Members that are also transmission service providers will make filings with FERC to amend their Tariffs to include the provision of Non-Firm Energy Exchange Transmission Service and become Participating Transmission Providers, in accordance with Section 3.4 above (the "Tariff Filings").

8.4 Effective Date and Southeast EEM Commencement Date.

8.4.1 Unless specific provisions become effective earlier by the explicit terms contained herein, this Agreement shall be binding upon the Members upon the effective date established by FERC in a FERC order accepting the Agreement without modification or condition (the "Effective Date"); provided, however, that that this Agreement shall not become binding upon an individual Member who seeks acceptance or approval from a Governmental Entity pursuant to Section 8.2.1 above until the later of: (x) the date of issuance of an order by such Governmental Entity approving without modification or condition this Agreement and/or such Member's participation in the Southeast EEM and (y) the Effective Date; and provided, further, that the Members agree that this Agreement will bind each of them upon signing, subject only to the approvals and acceptances provided in this Section 8.4. In the event FERC does not accept the Agreement as filed, the Members may agree to changes or modifications to the Agreement pursuant to an Affirmative Supermajority Vote as set forth in Section 8.6, in which event the Effective Date shall be the date that FERC accepts the revised Agreement with any such changes or modifications agreed to pursuant to Section 8.6.

8.4.2 The Southeast EEM Commencement Date shall not occur until after (i) the Effective Date, (ii) the issuance by FERC of an order or orders accepting without modification or condition all of the Jurisdictional Member Participating Transmission Provider's Tariff Filings, and (iii) the Membership Board has approved and established the Southeast EEM Commencement Date in accordance with Section 4.1.9(vi).

8.5 If a Governmental Entity (other than FERC) to which a Member's participation in the Southeast EEM has been submitted for approval pursuant to Section 8.2.1 has not issued an order on such request within four (4) months from the date of submission, the Member for which such approval was requested may withdraw from this Agreement by providing written notice to all other Members no later than fifteen (15) days after such four-month period has elapsed. Withdrawal under this Section 8.5 shall be subject to the provisions of Section 4.2.

8.6 The individual provisions of this Agreement are inter-related and inter-dependent, and the agreement of the Members to the terms hereof is based on the expectation that it will be approved by all necessary Governmental Entities in its entirety. Accordingly, the terms of this Agreement are not severable, and are an integrated package that is submitted with the understanding and condition that it will be approved by the necessary Governmental Entities in its entirety. As such, if at any time (i) a Governmental Entity issues an order that does not accept or approve this Agreement or a Tariff Filing in its entirety without condition or requires modifications to the Agreement or the relevant Tariff ("Southeast EEM Order"), or (ii) any state or federal Laws or regulations, now existing or enacted or promulgated after the Effective Date are interpreted by a Governmental Entity in such a manner as to indicate that the structure or terms of this Agreement are more likely than not to be a violation of such Laws or regulations or are more likely than not to impact the jurisdictional status of any Member (a "Change in Law"), or (iii) if any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Entity ("Other Court/Governmental Entity Action"), the Members will engage in good faith negotiations during a forty-five (45) day period after the date of the Southeast EEM Order or Change in Law or Other Court/Governmental Entity Action to agree to Agreement modifications or conditions that are consistent with the modifications and conditions imposed by such Southeast EEM Order, Change in Law or Other Court/Governmental Entity Action; provided, however, that in any such negotiation the Members are not under any obligation to reach an agreement. Any changes, modifications or conditions to the effectiveness of this Agreement agreed to by an Affirmative Supermajority Vote shall be submitted to the required Governmental Entities for approval or acceptance and the orders on such filings shall be deemed to be and treated as Southeast EEM Orders for purposes of this Article 8. If an Affirmative Supermajority Vote cannot be achieved within such forty-five (45) day period, then the Agreement shall terminate and be of no force and effect. If a Member does not agree with the modifications to the Agreement adopted by the Affirmative Supermajority Vote, such non-agreeing Member shall be subject to the waiver of rights provisions of Section 16.9, but shall have the right to withdraw from this Agreement and the Southeast EEM upon thirty (30) days prior written notice. Upon such notice of withdrawal by a Member, any other Member may withdraw from this Agreement by providing written notice to the other Members within twenty-five (25) days after the date of the first Member's notice of withdrawal. Any notice to withdraw provided in accordance with this Section 8.6 shall become effective as of the later of the date provided in such notice and the date such Member is permitted

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to withdraw in accordance with Section 8.5 (the "Governmental Action Withdrawal Date"). Withdrawal under this Section 8.6 shall be subject to the provisions of Section 4.2.

8.7 A Non-Jurisdictional Member, in its sole discretion, may immediately withdraw from this Agreement if it becomes apparent that the Non-Jurisdictional Member's engagement in activities under this Agreement or FERC's approval of this Agreement would (i) jeopardize the tax-exempt status of interest paid by the Non-Jurisdictional Member on outstanding debt obligations, (ii) render the Non-Jurisdictional Member a Public Utility subject to FERC's jurisdiction, or (iii) if the Non-Jurisdictional Member determines that any conflict exists between provisions of this Agreement and applicable Laws and regulations of the state of its creation, or rate schedules adopted by its governing body under state Law, in which case such state Laws, regulations, or rate schedules shall govern with respect to such Non-Jurisdictional Member. The withdrawing Non-Jurisdictional Member may withdraw from this Agreement on this basis by providing written notice to all other Members and the Southeast EEM Administrator. Withdrawal under this Section 8.7 shall be subject to the provisions of Section 4.2.

ARTICLE 9

RELEASE AND LIABILITY; NO FIDUCIARY DUTIES

9.1 Except as expressly set forth in Section 14.2, to the maximum extent permitted by applicable Law, each Member releases and discharges every other Member from any and all liability for any and all liabilities, claims, losses, damages, expenses and other claims whatsoever the releasing Member, its officers, directors, trustees, agents, employees, affiliates, successors or assigns (collectively "Related Parties") may have that arise out of or relate to the establishment, development, operation or maintenance of, or any deficiency in, the Southeast EEM System. In addition, to the maximum extent permitted by applicable Law (i) no Member shall be liable to any other Member or its Related Parties for any liabilities, damages, obligations, payments, losses, costs or expenses under this Agreement in any amount in excess of the actual compensatory damages suffered by such other Member or its Related Parties in connection with, or resulting from, the releasing Member's performance or non-performance of this Agreement, or any actions undertaken by the releasing Member in connection with or related to this Agreement, and (ii) each Member waives any right to recover from any other Member or its Related Parties incidental, punitive, exemplary, special, indirect, multiple or consequential damages (including attorneys' fees or litigation costs to recover the same and any claims arising from any loss of interchange sales or revenues, loss of profits, costs of substitute power, costs of additional operating expenses, or suits by third parties) in connection with, or resulting from, performance or non-performance of this Agreement, or any actions undertaken in connection with or related to this Agreement or that arise out of or relate to the establishment, development, operation or maintenance of, or any deficiency in, the Southeast EEM System. Notwithstanding the foregoing, however, no Member shall be released, discharged, indemnified or held harmless with respect to any liability for damages or other claims arising from any action or failure to act by that Member that is unlawful, undertaken in bad faith, grossly negligent or the product of willful misconduct. Nothing herein shall release any Member from any obligation or liability it may have pursuant to any other agreement with any other Member.

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9.2 EXCEPT FOR THE WARRANTIES AND REPRESENTATIONS SET FORTH IN ARTICLE 13 HEREOF, NONE OF THE MEMBERS, COLLECTIVELY OR INDIVIDUALLY, MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, TO ANY MEMBER, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9.3 The provisions set forth in this Article 9 shall be given the maximum effect permitted by Law and shall indefinitely survive the termination or expiration of this Agreement with respect to any Member or Members.

9.4 No Fiduciary Duties. Nothing in this Agreement should be construed or interpreted as creating a partnership by and among the Members. To the extent any Member attempts to construe this Agreement as evidence of a partnership or otherwise a basis for requiring certain implied duties and rights among the Members, notwithstanding any other provisions of this Agreement, or any other agreement, the Members covenant and agree not to prosecute, file or maintain any action, controversy, dispute, or proceeding, and do hereby expressly eliminate, waive, disclaim and release, any and all fiduciary duties of the Members that may arise pursuant to performance of their obligations or exercise of their rights pursuant to this Agreement, or that may arise pursuant to any other standard, to any Party herein, including, without limitation, its Members, and in the case of insolvency or the zone of insolvency, to creditors of any character or claim. This Agreement (including this provision) is not intended to, and shall not, create or impose any fiduciary duties on the Member or any other party for any purpose, without limitation.

9.5 No Implied Covenants. Each Member acknowledges and agrees that, and notwithstanding any other provisions of this Agreement or any other agreement contemplated herein or any applicable provisions of Law or equity or otherwise, no covenants, duties or obligations, whether express, implied, statutory or otherwise, including, without limitation, (i) the duty of good faith and fair dealing, (ii) the fiduciary duties of care, loyalty and obedience, shall apply to the acts, omissions, behavior or conduct of the Members, in any context, except for those covenants, duties and obligations expressly contained in this Agreement.

9.6 No Restriction on Competition of Members. Each of the Members agrees, severally and not jointly, that for the term of this Agreement, they are expressly permitted and authorized to directly or indirectly own, manage, operate, join, control and/or participate in the ownership, management, operation or control of, any business engaged in business or operations that compete or relate to, directly or indirectly, the business of the Southeast EEM System. The legal doctrines of "corporate opportunity," "business opportunity" and similar doctrines shall not be applied to any such competitive venture or activity of a Member or its Affiliates. No Member or its Affiliates will have any obligation to the Southeast EEM System or the Southeast EEM System's other Members or Participants with respect to any opportunity relating to the Southeast EEM System or its business.

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ARTICLE 10

TRANSPARENCY; CONFIDENTIALITY; AUDITING

10.1 Transparency; Confidentiality.

10.1.1 The decision and obligation to report quantities, prices, or other data regarding Energy Exchange transactions to either a Governmental Entity, a reputable index developer or a data hub will be the responsibility of each Seller and Buyer. Neither the Southeast EEM Administrator, nor the Southeast EEM Agent nor the Members shall be responsible for reporting Energy Exchange transactions made by other entities through the Southeast EEM System.

10.1.2 Except as provided in Appendix B, the identity of all Bidders, Offerors, Sellers and Buyers shall be kept confidential from all third party entities, other than the FERC, the Market Auditor, and the Southeast EEM Administrator except to the extent required by Law, regulation, or order.

10.1.3 The Southeast EEM Administrator shall post and maintain on the Southeast EEM System Interface: (i) a list of all Members and Participants and their contact information, (ii) the notice provisions provided in this Agreement as set forth in Section 16.8, (iii) the notice information of each Annual Meeting and Annual Member Meeting, including the date, place and time of such Annual Meeting and Annual Member Meeting, and (iv) a current description of the Territory.

10.1.4 The Southeast EEM Administrator shall prepare and post reports that would include data aggregated by the Southeast EEM System as set forth in Section V of the Southeast EEM Market Rules.

10.2 Auditing.

10.2.1 The Southeast EEM Agent will engage the Market Auditor to perform the auditing scope of work as set forth in Section VI of the Southeast EEM Market Rules.

10.2.2 The Market Auditor and Southeast EEM Administrator may share information related to the Southeast EEM on a confidential and reciprocal basis.

10.2.3 The Market Auditor has independent authority to prepare and submit any reports described herein without any prior review or approval by any Member or any other outside sources.

10.3 Each Member is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this Article 10 to prevent the release of confidential information, and may seek other remedies available at Law or in equity for breach of this provision.

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ARTICLE 11

SOUTHEAST EEM MARKET RULES

11.1 Set out in Appendix B to this Agreement are the Southeast EEM Market Rules that shall govern the Bid, Offer and matching procedures of the Southeast EEM System and the reservation and tagging functions of the Southeast EEM System, as such appendix may be amended and revised from time to time by the Membership Board in accordance with Section 4.1.9.

11.2 The rules, guidelines, requirements and other standards for the Southeast EEM System shall not impose any obligation on any Member that would cause any Member to violate any reliability criteria, guideline, standard or requirement (hereafter referred to as "Reliability Obligations") of NERC, the applicable Balance Authority, and any other recognized region or subregion of NERC (including the SERC Reliability Corporation ("SERC")), including any successors to NERC or SERC, or applicable state or federal Reliability Obligations, to the extent any such Reliability Obligations are applicable to a Member. Each Member shall participate in the Southeast EEM System in a manner that conforms to all Reliability Obligations as may be applicable to it. The rules, guidelines, requirements and other standards for the Southeast EEM System shall not impose any obligation on any Member that would cause any Member to engage in conduct not consistent with Good Utility Practice.

11.3 The Operating Committee shall establish rules and procedures, including appropriate audit procedures, under which any Member may request a determination of whether the hardware, software, management, or operation of, or Member participation in, the Southeast EEM System, as they may affect the requesting Member, comply with all rules, guidelines, requirements and other standards for the Southeast EEM System as set forth in the Southeast EEM Market Rules in Appendix B. The Operating Committee, in a manner consistent with all applicable provisions of this Agreement, may make recommendations to the Membership Board to apportion the costs of making revisions or modifications to the Southeast EEM System.

ARTICLE 12

DISPUTE RESOLUTION

12.1 Any dispute between two (2) or more Members arising under this Agreement shall first be referred to a designated senior representative of each of the Members involved in such dispute for resolution on an informal basis as promptly as practicable. Such designated senior representatives shall meet, negotiate and attempt in good faith to resolve the dispute quickly, informally, and inexpensively. In the event the designated senior representatives are unable to resolve the dispute within thirty (30) days (or other such period as the Parties may agree upon) by mutual agreement, such dispute within ten (10) Business Days shall be submitted to a mediator and resolved in accordance with the mediation procedures set forth below.

12.2 Following the procedures set forth in Section 12.1, any dispute between two (2) or more Members arising under this Agreement shall be subject to non-binding mediation prior to the initiation of judicial, mutually agreed upon arbitration, or other dispute resolution proceedings, unless the Parties to the dispute mutually shall determine from the nature of the dispute, the

positions of the Parties, and other relevant facts and circumstances that mediation will not lead to resolution of the dispute. The Parties to any such dispute shall select a mediator to assist in the resolution of their dispute. The mediator shall (i) be knowledgeable in the subject matter of the dispute and (ii) have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless the interest is fully disclosed in writing to all participants and all participants waive in writing any objection to the interest.

12.3 The disputing Parties shall attempt in good faith to resolve their dispute in accordance with the procedures and timetable established by the mediator. In furtherance of the mediation efforts, the mediator may:

12.3.1 Require the Parties to meet for face-to-face discussions, with or without the mediator;

12.3.2 Act as an intermediary between the disputing Parties;

12.3.3 Require the disputing Parties to submit written statements of issues and positions; and

12.3.4 If requested by the disputing Parties, provide a written recommendation on resolution of the dispute.

12.4 If a resolution of the dispute is not reached by the thirtieth (30th) day after the appointment of the mediator or such later date as may be agreed to by the Parties, the mediator shall promptly provide the disputing Parties with a written, confidential, non-binding recommendation on resolution of the dispute, including the mediator's assessment of the merits of the principal positions being advanced by each of the disputing Parties. At a time and place specified by the mediator after delivery of the foregoing recommendation, but no later than fifteen (15) days after issuance of the mediator's recommendation, the disputing Parties shall meet in a good faith attempt to resolve the dispute in light of the mediator's recommendation. Each disputing Party shall be represented at the meeting by a person with authority to settle the dispute, along with such other persons as each disputing Party shall deem appropriate. If the disputing Parties are unable to resolve the dispute at or in connection with this meeting, then: (i) any disputing Party may commence such judicial, mutually agreed upon arbitration, or other dispute resolution proceedings as may be appropriate; and (ii) the recommendation of the mediator shall have no further force or effect, and shall not be admissible for any purpose in any subsequent arbitral, judicial, or other dispute resolution proceeding.

12.5 The costs of the time, expenses, and other charges of the mediator and of the mediation process shall be borne by the Parties to the dispute, with each side in a mediated matter bearing equal costs. Each Party shall bear its own costs and attorney's fees incurred in connection with any mediation under this Agreement.

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ARTICLE 13

REPRESENTATIONS AND WARRANTIES

13.1 Each Member represents and warrants to each other Member that on the date it executes this Agreement and throughout the term of this Agreement, the following representations and warranties are, and will continue to be, true and correct in all material respects:

13.1.1 it is duly organized, validity existing and in good standing under the Laws of the state of its incorporation or organization;

13.1.2 it will at all times comply with the provisions of this Agreement and all Exhibits and Appendices hereto, each as amended from time to time;

13.1.3 it has all requisite corporate or other organizational power to carry on its business as contemplated by this Agreement;

13.1.4 except for the authorizations and approvals described in Article 8 of this Agreement, it has all authorizations from Governmental Entities necessary for it to legally perform its obligations under this Agreement;

13.1.5 the execution, delivery and performance of this Agreement and any other documentation it is required to deliver under this Agreement are within its powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents, any contract or other agreement to which it is a party or any Law applicable to it;

13.1.6 the individual(s) executing and delivering this Agreement and any other documentation required to be delivered under this Agreement on behalf of such Member are duly empowered and authorized to do so at the time of such execution and delivery;

13.1.7 this Agreement has been duly and validly executed and delivered by such Member and constitutes such Member's legal, valid and binding obligation; and

13.1.8 all information that has been provided by or on behalf of a Member pursuant to this Agreement, is true and correct in all material respects. Each Member further covenants that all information provided to the Operating Committee, the Market Auditor, the Southeast EEM Agent or the Southeast EEM Administrator by or on behalf of such Member pursuant to this Agreement, subsequent to the date hereof, shall be true and correct in all material respects.

ARTICLE 14

DEFAULTS

14.1 A Member shall be in default in payment when payment is not made in accordance with the billing procedures established under this Agreement within ten (10) Business Days after its final due date. A default by any Member in its payment obligations under this Agreement shall be cured by payment of all overdue amounts together with interest accrued at the Interest Rate, prorated daily from the due date to the date the payment curing the default is made.

14.2 Notwithstanding Article 9, a defaulting Member shall be liable to the non-defaulting Members for all costs, including costs of collection and reasonable attorney fees incurred by such non-defaulting Members, plus interest at the Interest Rate. The proceeds paid by a defaulting Member to remedy any such default shall be distributed as directed by the Membership Board to the non-defaulting Members in proportion to the additional costs and expenses actually paid by the non-defaulting Members as a result of the default.

14.3 The rights of a Member who is in default of any of its payment or other material obligations herein may be terminated by the Membership Board. This provision allowing the non-defaulting Members to terminate such rights is in addition to any other remedies provided in this Agreement, at Law, or in equity, and shall in no way limit the non-defaulting Members' ability to seek judicial enforcement of the defaulting Member's obligations under this Agreement. Upon the effective date of such termination of rights, all rights of the defaulting Member and all obligations of non-defaulting Members to the defaulting Member imposed by this Agreement, except (i) payment obligations, (ii), the indemnification obligations set forth in Section 6.5, (iii) the release and other obligations set forth in Article 9, (iv) the confidentiality obligations set forth in Article 10 and Article 15, and (v) the obligations set forth in Section 16.9 and Section 16.14, shall immediately be terminated, except that no such termination shall impact Enabling Agreements any such Member is a party to.

14.4 Upon termination of the rights of a defaulting Member under this Agreement, the Operating Committee shall review responsibility and cost allocations of the non-defaulting Members and make adjustments thereto as it deems necessary.

ARTICLE 15

CONFIDENTIALITY

15.1 Any information provided by a Member to any other Member pursuant to this Agreement that is labeled "Confidential" shall be used by the receiving Member solely in connection with the purposes of this Agreement and shall not be disclosed by the receiving Member to any third party, except with the providing Member's consent, and upon request of the providing Member shall be returned thereto. Notwithstanding the above, a Member may disclose any such information to third parties as may be necessary for such Member to perform its obligations under this Agreement (including, but not limited to, the Member's employees, officers, directors, trustees, attorneys and other consultants). To the extent that such disclosures are necessary, the Members shall endeavor in disclosing any such information to seek to preserve the confidentiality of such information. This provision shall not prevent any Member from providing any confidential information received from any other Member to any court or governmental body to enforce its rights or perform its obligations hereunder or as may otherwise be required by such court or body or by Law, provided that, to the extent required, if feasible, the disclosing Member shall have given prior notice to the Member that provided such information of such required disclosure and, if so requested by such other Member, shall have used all reasonable efforts to oppose the requested disclosures, if appropriate under the circumstances, or to otherwise make such disclosure pursuant to a protective order or other similar arrangement for confidentiality. Without limiting the scope of the foregoing, the Members shall use all reasonable efforts to maintain the confidentiality of any confidential information in any filings with, or submissions to, any governmental or regulatory

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authorities. Information shall not be considered confidential for purposes of this Article 15 if the Member receiving such information from another Member can demonstrate by competent documentary evidence that such information: (a) was rightfully in the possession of the receiving Member prior to its disclosure to the receiving Member by the disclosing Member; (b) was in the public domain prior to its disclosure by the disclosing Member to the receiving Member; (c) came into the public domain, by publication or otherwise, through no direct or indirect act or omission of the receiving Member, subsequent to its disclosure by the disclosing Member to the receiving Member; or (d) was supplied to the receiving Member by a third party having the legal right to disclose it to the receiving Member, but only if the third party does not owe a duty of confidentiality to the disclosing Member with respect to such information.

15.2 Any information provided by a Member to a mediator or arbitrator pursuant to this Agreement that is labeled "Confidential" shall be subject to the provisions of this Article 15. For such purposes, any mediation or arbitration arranged pursuant to Article 12 of this Agreement shall provide for such mediator or arbitrator to comply with the provisions applicable to a Member receiving Confidential information from another Member.

15.3 Each Member is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this Article 15 to prevent the release of confidential information, and may seek other remedies available at Law or in equity for breach of this provision.

ARTICLE 16

MISCELLANEOUS

16.1 "Public Utility" Status of Members. Certain Members are not Public Utilities. Nothing in this Agreement is intended to subject such Members to FERC jurisdiction as Public Utilities, and Members that are not Public Utilities shall not be required to take any action or participate in any filing or appeal that would confer FERC jurisdiction over such Members that does not otherwise exist.

16.2 Transfer of Interest in Agreement. No voluntary transfer of interest, rights, or obligations of any Member under this Agreement shall be made without the written consent and approval of all other Members except to a successor in operation of all or substantially all of its electric utility assets. Written approval when required shall not be unreasonably withheld. Any successor or assignee of the rights of any Member, whether by voluntary transfer, judicial or foreclosure sale or otherwise, shall be subject to all the provisions and conditions of this Agreement, to the same extent as though such successor or assignee were the original Member hereunder, and no assignment or transfer of any rights hereunder shall be effective unless and until the assignee or transferee agrees in writing to assume all of the obligations of the assignor or transferor and to be bound by all of the provisions and conditions of this Agreement; provided, that the execution of a mortgage or trust deed or a judicial or foreclosure sale made thereunder, or if through the disposition by the Administrator of the RUS, shall not be deemed a voluntary transfer within the meaning of this Section 16.2. If, due to reorganization, sale/purchase, or other means, a Member no longer owns or operates generation or has load obligation in the Territory, its membership(s) will be evaluated by the Operating Committee and any appropriate change in representation will be subject to approval of the Operating Committee.

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16.3 Relationship of Parties.

16.3.1 Nothing contained herein shall be construed to create an association, joint venture, trust, or partnership, or impose a trust, partnership, covenant, obligation, or liability on or with regard to any one or more of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

16.3.2 All rights of the Parties are several, not joint. No Party shall be under the control of or shall be deemed to control another Party. Except as expressly provided in this Agreement, no Party shall have a right or power to bind another Party without its express written consent.

16.4 Third Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, obligation or undertaking established herein. No party not a signatory hereto shall be entitled to enforce this Agreement against any person or entity.

16.4.1 No Reliance Interest on Non-Firm Energy Exchange Transmission Service. Notwithstanding anything to the contrary in this Agreement, Non-Firm Energy Exchange Transmission Service over a Participating Transmission Provider's transmission system shall only be offered to the extent of that Participating Transmission Provider's participation in the Southeast EEM, and only for that purpose. For the avoidance of doubt, owing to the voluntary nature of a Member's participation in this Agreement, membership in this Agreement shall not give rise to any third-party expectation or reliance interest on the availability of Non-Firm Energy Exchange Transmission Service upon the withdrawal of a Member.

16.5 No Dedication of Facilities. Any undertaking by one Party to another Party under any provision of this Agreement shall not constitute the dedication of the Southeast EEM System or any portion thereof of the undertaking Party to the public or to the other Party, and it is understood and agreed that any such undertaking by a Party shall cease upon the termination of such Party's obligations under this Agreement.

16.6 Other Agreements. No provision of this Agreement shall preclude a Member from entering into other agreements or conducting transactions under existing agreements (including where applicable any Enabling Agreements) with other Members, Participants or Additional Members. This Agreement shall not be deemed to modify or change any rights or obligations under any prior contracts or agreements between or among any of the Members.

16.7 Further Assurances. The Parties to this Agreement hereby agree to provide all other information, execute and deliver any further instruments or documents, and take or forbear from any further acts that may be reasonably required or useful to carry out the intent and purpose of this Agreement, provided that such requirements are consistent with the express terms of this Agreement and all applicable Laws and regulations, and in the case of confidential information subject to Article 15 of this Agreement. Without limiting the scope of the foregoing, each Member shall, subject to the confidentiality provisions set forth in Article 15, provide the Membership Board with any information that is reasonably necessary to operate the Southeast EEM System or for the Operating Committee or the Southeast EEM Administrator to implement any provisions of this

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Agreement, or any other business related to the development or the operation of the Southeast EEM System.

16.8 Notices. All notices or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be (i) delivered by internet electronic mail (with return internet electronic mail from the recipient acknowledging receipt) sent to the internet electronic mail address for such recipient as recorded in the Secretary's records, and (ii) delivered in person, by nationally recognized overnight courier service, or by first class mail, certified or registered, postage prepaid, to the addresses of the Members set forth in Exhibit A hereto. Any Member may change its address by giving notice in writing stating its new address to the Southeast EEM Administrator and the Secretary, and the Secretary shall promptly update Exhibit A accordingly. Any notice, demand or other communication shall be deemed given and effective as of the date of delivery in person or upon receipt as set forth on the return receipt if delivered by certified or registered mail or by overnight courier service. The inability to deliver because of changed address of which no notice was given, or the rejection or other refusal to accept any notice, demand or other communication, shall be deemed to be receipt of the notice, demand or other communication as of the date of such inability to deliver or the rejection or refusal to accept.

16.9 Amendments. Except as otherwise provided in the following two sentences, this Agreement, including each of the Exhibits and Appendices hereto, may be modified or amended in the manner set forth in this Section 16.9, Article 4, and Article 8. In accordance with Article 3 of this Agreement, an entity that meets the criteria for qualification and admission as a Member, as determined by the Membership Board, may become an Additional Member and a Party to this Agreement by executing this Agreement or a Joinder hereto, and upon payment of all applicable fees, dues and contributions so specified or authorized in this Agreement, the Secretary shall revise, or cause to be revised, Exhibit A to include such Additional Member. The Parties hereby stipulate and agree that this Agreement was entered into as a result of arm's-length negotiations between the Parties. Further, the Parties believe that the terms and conditions of this Agreement are just and reasonable and shall remain so over the life of the Agreement. The Parties waive all rights to challenge the validity of this Agreement or whether it is just and reasonable for and with respect to the entire term, and hereby agree to make no filings with any Governmental Entity challenging the terms and conditions of this Agreement as to whether they are just and reasonable or in the public interest. The Parties hereby further stipulate and agree that no Party may bring or support any action, proceeding or complaint seeking to modify, cancel, suspend, or abrogate the terms and conditions of this Agreement. Absent an amendment to this Agreement pursuant to Section 4.1.9, Article 4 and Article 8 approving the proposed change, the standard of review for changes to any portion of this Agreement proposed by a non-Party, or FERC acting *sua sponte*, shall be the strictest standard of review permissible to preserve the intent of the Parties to uphold the sanctity of contracts without modification, which in no event shall be lower than the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Sierra Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

16.10 Headings. Section headings used in this Agreement are for convenience and reference only and are not to be considered in construing the terms of this Agreement.

16.11 Applicable Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware without regard to its conflict of laws principles or rules.

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16.12 Entire Agreement. This Agreement constitutes the entire agreement among the Members with respect to the subject matter hereof. This Agreement supersedes all prior agreements and oral understandings among the Members with respect to such matters.

16.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument, binding upon all Parties hereto, notwithstanding that all of such Parties may not have executed the same counterpart.

16.14 WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH MEMBER WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

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IN WITNESS WHEREOF, each of the Members and the Southeast EEM Agent (solely for purposes of Article 6) has executed this Agreement as of the day and year indicated next to the signature.

DATE:_____

Member:_____

By: _____

Name: _____

Title: _____

Solely for purposes of Article 6, the Southeast EEM Agent acknowledges and agrees with the provisions of Article 6 and hereby accepts the appointment as the Southeast EEM Agent as of the Effective Date:

Southeast EEM Agent:_____

By: _____

Name: _____

Title: _____

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EXHIBIT A

NAMES AND ADDRESSES OF THE MEMBERS

Alabama Power
30 Ivan Allen Jr. Blvd. NW
Atlanta, GA 30308

Associated Electric Cooperative, Inc.
2814 S. Golden
PO Box 754
Springfield, MO 65807

Dalton Utilities
1200 VD Parrott, Jr. Parkway
PO Box 869
Dalton, GA 30722

Dominion Energy South Carolina, Inc.
220 Operation Way, MC C222
Cayce, SC 29033

Duke Energy Carolinas, LLC
550 South Tryon Street
Charlotte, NC 28202

Duke Energy Progress, LLC
550 South Tryon Street
Charlotte, NC 28202

Georgia Power
30 Ivan Allen Jr. Blvd. NW
Atlanta, GA 30308

Georgia System Operations Corporation
2100 East Exchange Place
Tucker, GA 30084

Georgia Transmission Corporation (An Electric Membership Corporation)
2100 East Exchange Place
Tucker, GA 30084

Kentucky Utilities Company
One Quality Street
Lexington, KY 40507

Louisville Gas and Electric Company
220 West Main Street
Louisville, KY 40202

MEAG Power
1470 Riveredge Pwky., NW
Atlanta, GA 30328

Mississippi Power
30 Ivan Allen Jr. Blvd. NW
Atlanta, GA 30308

North Carolina Electric Membership Corporation
3400 Sumner Blvd.
Raleigh, NC 27616

North Carolina Municipal Power Agency No. 1
1427 Meadow Wood Blvd.
Raleigh, NC 27604

Oglethorpe Power Corporation (An Electric Membership Corporation)
2100 East Exchange Place
Tucker, GA 30084

PowerSouth Energy Cooperative
2027 East Three Notch Street
Andalusia, AL 36421

Santee Cooper
One Riverwood Avenue
Moncks Corner, SC 29461

Tennessee Valley Authority
400 West Summit Hill Drive, WT 6A-K
Knoxville, Tennessee 37902

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EXHIBIT B

FORM OF JOINDER AGREEMENT

JOINDER AGREEMENT

Reference is made to the Southeast Energy Exchange Market Agreement, dated as of [Month] [Day], 202[], as the same may be amended from time to time (the "Southeast EEM Agreement"), by and among the entities listed on Exhibit A thereto. Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Southeast EEM Agreement.

The undersigned hereby agrees to become a Member of the Southeast EEM and be bound by the terms of the Southeast EEM Agreement as if an original party thereto. The Membership Board hereby consents to the addition of the undersigned as a Member of the Southeast EEM and as party to the Southeast EEM Agreement as if an original party thereto. A duly executed copy of this Joinder Agreement shall be delivered to the Secretary and the Southeast EEM Administrator.

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed as of the date set forth below.

Date: _____ ___, 20__

[NAME OF JOINING MEMBER],
A [Jurisdiction] [Entity Type]

By: _____

Name: _____

Title: _____

ACKNOWLEDGED AND ACCEPTED:

By: _____

Name: _____

Title: Secretary, Membership Board

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APPENDIX A

FORM OF PARTICIPANT AGREEMENT

APPENDIX A

FORM OF PARTICIPANT AGREEMENT FOR THE SOUTHEAST ENERGY EXCHANGE MARKET

1.0 This Participant Agreement ("Agreement"), dated as of _____, is entered into, by and between [INSERT NAME OF ENTITY], the Southeast EEM Agent acting in its capacity as the agent of the Members of the Southeast Energy Exchange Market ("Southeast EEM") and_____ ("Participant").

2.0 The Participant and Southeast EEM agree that this Agreement shall incorporate, in their entirety, Appendix B to the Southeast EEM Agreement ("Southeast EEM Market Rules"), designated as [lead filer's] Rate Schedule No. [____] and the Southeast EEM Manuals. Any term not defined herein shall have the meaning ascribed to it in the Southeast EEM Market Rules. In the event of any conflict between this Agreement and the Southeast EEM Market Rules, the Southeast EEM Market Rules shall control.

3.0 The Participant has submitted an application for participation in the Southeast EEM and has been determined by the Southeast EEM to meet all requirements of being a Participant as defined in the Southeast EEM Market Rules. The Participant warrants that all information submitted in the application is true and accurate.

4.0 The Participant agrees to be bound by and accepts all of the terms of the Southeast EEM Market Rules and the Southeast EEM Manuals, as both may be amended from time to time.

Any amendments to the Southeast EEM Market Rules or the Southeast EEM Manuals are automatically and without further action incorporated into this Agreement.

5.0 The Southeast EEM agrees that Participant shall be deemed a "Participant" under the terms of the Southeast EEM Market Rules, with all rights of participation and access to the Southeast EEM System afforded Participants under the Southeast EEM Market Rules.

6.0 The Participant shall supply the Southeast EEM Administrator with any and all information deemed reasonably necessary for the administration of the Southeast EEM System.

7.0 Either Party can assign or transfer any or all of its rights and/or obligations under this Agreement upon thirty (30) days written notice. Any such transfer or assignment shall be conditioned upon the successor in interest accepting the rights and/or obligations under this Agreement as if said successor in interest was an original Party to this Agreement.

8.0 An event of "Force Majeure" means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, pandemic, epidemic, breakage or accident to machinery or equipment, any curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities or any other cause beyond a Party's control. A Force Majeure event does not include an act of negligence or intentional wrongdoing. Neither the Southeast EEM Agent, the Southeast EEM, the Members, nor the Participant will be considered in default as to any obligation under this Agreement if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Agreement is hindered by an

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event of Force Majeure shall make all reasonable efforts to perform its obligations under this Agreement.

9.0 The Participant shall at all times indemnify, defend, and save the Southeast EEM System, the Southeast EEM Agent and the Southeast EEM Administrator harmless from, any and all damages, losses, claims, including claims and actions relating to demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Southeast EEM Agent's or Southeast EEM Administrator's, as applicable, performance of its obligations under this Agreement and the Southeast EEM Market Rules, except in cases of negligence or intentional wrongdoing by the Southeast EEM Agent or Southeast EEM Administrator, as applicable.

10.0 This Agreement shall be deemed to be a contract made under, and for all purposes shall be governed by and construed in accordance with, the laws of the State of Delaware.

11.0 This Agreement shall be effective upon execution by both parties and shall remain in full force and effect until terminated pursuant to Sections 12 or 13 of this Agreement.

12.0 The Southeast EEM may terminate this Agreement by providing written notice of termination to the Participant in the event the Participant commits a material violation of its obligations under the terms of the Southeast EEM Market Rules which, if capable of being remedied, is not remedied within thirty (30) days after the date the Southeast EEM has given the Participant written notice of the violation, unless excused by reason of Force Majeure as provided in Section 8 of this Agreement.

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13.0 The Participant may terminate this Agreement upon thirty (30) days written notice to the Southeast EEM.

14.0 Upon termination of this Agreement for any reason, Participant shall not have access to the Southeast EEM System, nor be entitled to submit Bids or Offers thereunder.

15.0 This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

16.0 Any notice or request made to either of the Parties to this Agreement shall be made to the following representatives:

Southeast EEM		Participant
Title:	[]	_____
Address:	[]	_____
	[]	_____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials.

Southeast EEM	Participant
By: _____	By:_____

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Name: _____

Title: _____

Date: _____

Name: _____

Title: _____

Date: _____

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APPENDIX B

SOUTHEAST EEM MARKET RULES

APPENDIX B

SOUTHEAST EEM SYSTEM MARKET RULES

I. INTRODUCTION AND APPLICABILITY.

Set forth below are the rules governing: 1) Participation in the Southeast EEM; 2) Bidding, Offering, and matching procedures for Energy Exchanges arranged through the Southeast EEM System, 3) Southeast EEM System data reporting, and 4) the processes for auditing Energy Exchanges and the hardware, software, management and operation of the Southeast EEM System. This Appendix B is subject to the terms and conditions of the Agreement. In the event of a conflict between the terms of the Agreement and the terms of this Appendix B, the terms of the Agreement shall control.

II. DEFINITIONS.

The following terms shall be defined as indicated for the purposes of this Appendix B. Definitions and terms expressed in the singular shall include the plural and *vice versa*. Any capitalized terms not defined herein shall have the meaning set forth in the Agreement.

"Agreement" means the Southeast Energy Exchange Market Agreement By and Among the Members of the Southeast EEM to which this Appendix B is appended.

"Balancing Authority" means the responsible entity that integrates resource plans ahead of time, maintains demand and resource balance within a Balancing Authority Area, and supports interconnection frequency in real time.

"Balancing Authority Area" means the collection of generation, transmission and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

"Bid" means a voluntary submission containing the required Bid Information to purchase a certain amount of Non-Firm Energy (set forth in MW).

"Bid Information" means the information applicable to Bids set forth in Section IV.B.3.

"Bid Price" means the price, in $/MWh for the amount of Non-Firm Energy submitted in a Bid. This represents the maximum price that the Bidder is willing to pay.

"Bidder" means a Participant who submits a Bid into the Southeast EEM System.

"Buyer" means a Bidder that has been matched with an Offeror for an Energy Exchange through the Southeast EEM System.

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"Clock Hour" means the sixty-minute period ending at :00.

"Company System Administrator" has the meaning set forth in Section VI.B.2.

"Contract Path" means the continuous transmission path for the flow of Non-Firm Energy between the Participants reserved for an Energy Exchange using the transaction matching, reservation and tagging functions of the Southeast EEM System.

"Delivery Interval" means a fifteen (15) minute period in which Non-Firm Energy is intended to be delivered by a Seller to its matched Buyer(s).

"Energy Exchange" means a transaction for the purchase and sale of Non-Firm Energy in the Southeast EEM between Buyers and Sellers pursuant to an Enabling Agreement and in conformance with the requirements of the Southeast EEM Rules.

"Electronic Tag" or "e-Tag" means the primary method for coordination of Interchange Schedules or Energy Schedules where Energy is transferred between Balancing Authority Areas and coordination required between multiple entities. Various entities can communicate important information pertaining to the Interchange transaction to each other via the internet using computer applications, which are based on the e-Tag specifications and schema maintained by the North American Energy Standards Board ("NAESB").

"Energy Exchange Notification" means the notice provided to Bidders and Offerors who were matched for an Energy Exchange by the Southeast EEM Algorithm; to be automatically generated by the Southeast EEM System and provided before the start of a Delivery Interval; and to include data on the matched Energy Exchange including Buyer, Seller, price, amount of Non-Firm Energy, Source, Sink, delivery location, applicable Delivery Interval, and other any other necessary data for Participants to record the transaction.

"Energy Exchange Price" means the price, in $/MWh, calculated by the Southeast EEM Algorithm for a specific Energy Exchange.

"FERC" means the Federal Energy Regulatory Commission.

"Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment and in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice does not require the optimum practice, method, or act to the exclusion of all others, but rather is intended to include acceptable practices, methods, or acts generally accepted in the SERC Reliability Corporation region.

"Losses" means the total cost of the electrical energy lost in the transmission of electrical energy from a Source to a Sink based on the real power loss factor (%) ("Loss Factor") and loss rate ($/MWh) ("Loss Rate") of each Participating Transmission Provider on the Energy Exchange's Contract Path.

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"NAESB Electric Industry Registry" or "NAESB EIR" means thea central registry and repository of information required for commercial transactions that is maintained by NAESB.

"Network Map" means the computer-based representation of all Participating Transmission Provider service territories, Balancing Authorities, valid transmission paths (Point of Receipt – Point of Delivery combinations), Sources, and Sinks.

"Non-Firm Energy" means a product for which delivery or receipt of the energy may be interrupted for any reason or no reason, without liability on the part of either buyer or seller.

"Non-Firm Energy Exchange Transmission Service" means transmission service provided by a transmission provider, pursuant to its Tariff, that has the following characteristics: (i) it is non-firm transmission service with the lowest curtailment priority, provided solely on an as-available basis for 15-minute Energy Exchanges, after taking into account other higher priority uses and the limitations of the transmission system of the Participating Transmission Provider; (ii) it is available solely for Energy Exchanges; (iii) it is identified and offered in the Tariff as "Non-Firm Energy Exchange Transmission Service;" (iv) the charge for such service, and related Schedule 1 and Schedule 2 (or equivalent) ancillary services, is $0/MWh; (v) the charge for financial losses is based on the methodology established in the Participating Transmission Provider's Tariff; (vi) the service must be obtained by a Participant using the transaction matching, reservation and tagging functions of the Southeast EEM System, rather than directly through Open Access Same Time Information System or other reservation, scheduling or tagging requirements applicable to other forms of transmission service offered by a Participating Transmission Provider; (vii) the service may not be reassigned, redirected, or sold by the transmission customer; (viii) in combination with the other Participating Transmission Providers' provisions of Non-Firm Energy Exchange Transmission Service, the service allows for a continuous Contract Path for Energy Exchanges; and (ix) the Participating Transmission Provider is required to provide the information specified in and as required by Section IV.A.2 of the Southeast EEM Market Rules to the Southeast EEM System. For the avoidance of doubt, nothing in this Agreement shall obligate any Participating Transmission Provider to (a) plan, construct, or maintain its transmission system for the benefit of any Participant; (b) provide Non-Firm Energy Exchange Transmission Service in a manner that is contrary to the terms of the Participating Transmission Provider's Tariff, or contrary to Good Utility Practice, each as determined in the sole judgment of the Participating Transmission Provider; (c) provide Non-Firm Energy Exchange Transmission Service following termination of its Southeast EEM Member status; (d) provide Non-Firm Energy Exchange Transmission Service to a non - Participant; or (e) file its Tariff with FERC if the Tariff is not already required to be filed with FERC.

"OASIS" means an Open Access Same-Time Information System that conforms to the requirements of Part 37 of the FERC's regulations, 18 CFR §§ 37.1, et seq.

"OATI webRegistry" means the system developed by Open Access Technology International, Inc. to perform the NAESB EIR functions.

"Offer" means a voluntary submission containing the required Offer Information to sell a certain amount of Non-Firm Energy (set forth in MW).

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"Offer Price" means the price, in $/MWh for the amount of Non-Firm Energy offered in an Offer. This represents the minimum price that the Offeror is willing to collect to sell.

"Offer Information" means the information applicable to Offers set forth in Section IV.B.3, as well as other information that may be required by the Southeast EEM Administrator.

"Offeror" means a Participant who submits an Offer into the Southeast EEM System.

"Participant Profile" means that information identified in Section IV.A.1., Section IV.C.6., and such other information requested by the Southeast EEM System Interface to assist in the creation of Energy Exchanges.

"Participant" means an entity that meets the requirements set forth in Section III of this Appendix B.

"Participant Specific Constraints" has the meaning set forth in Section IV.A.1.b. and IV.C.5.

"Seller" means an Offeror that has been matched with a Buyer through the Southeast EEM System.

"Sink" means a pre-approved and validated OATI webRegistry sink point.

"Source" means a pre-approved and validated OATI webRegistry source point.

"Southeast EEM Algorithm" means the mathematical equations that determine the matching Bids and Offers resulting in Energy Exchanges.

"Southeast EEM System Interface" means the graphical user interface ("GUI") and application programming interfaces ("API") used by the Southeast EEM System that meet the Southeast EEM System requirements developed by the Southeast EEM Administrator and the Operating Committee.

"Southeast EEM Manuals" means the instructions, rules, procedures and guidelines established by the Operating Committee for the Southeast EEM.

"System Administrators" means, collectively, the Southeast EEM Administrator and Company System Administrators.

III. PARTICIPATION

A. Any entity that meets the requirements of this Section III may become a Participant.

B. A Participant must:

1. Own or otherwise control a Source within the Territory and/or be contractually obligated to serve a Sink within the Territory;

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2. Execute a Participant Agreement in the form attached to the Agreement as Appendix A (the "Participant Agreement") which agreement shall, among other things, contractually bind such entity to comply with the rules set forth in this Appendix B;

3. Deliver the executed Participant Agreement to the Secretary and the Southeast EEM Administrator, which shall become effective when countersigned by the Southeast EEM Agent at the direction of the Operating Committee;

4. Execute and deliver a Non-Firm Energy Exchange Transmission Service Agreement with each Participating Transmission Provider who requires delivery of such agreement, or otherwise have access to Non-Firm Energy Exchange Transmission Service from each Participating Transmission Provider; and

5. Have or enter into an Enabling Agreement with at least three (3) or more Participants.

IV. BIDS/OFFERS AND MATCHING PROCEDURES.

A. Pre-Bid/Offer Information Requirements.

1. Information Submitted by Participants.

a. Prior to being permitted to submit Bids or Offers, each Participant shall provide the Southeast EEM all required information in its Participant Profile. Participants are responsible for providing accurate information to the Southeast EEM System in its Participant Profile, as well as submitting any updates or modifications to the Southeast EEM Administrator to maintain the accuracy of Participant's Profile.

b. Participant-Specific Constraints.

i. Prior to being permitted to submit Bids or Offers, each Participant shall provide to the Southeast EEM in its Participant Profile, any constraints the Southeast EEM Algorithm must take into account in matching Bids or Offers from such Participant ("Participant-Specific Constraints"). Participant-Specific Constraints can be either counterparty specific or geographic.

ii. Offers from a Participant for a Delivery Interval will not be processed unless the Participant's Participant-Specific Constraints are set such that there are at least three other non-affiliated Participants with whom the submitting Participant can be matched for an Energy Exchange as a Seller, and Bids

from a Participant for a Delivery Interval will not be processed unless the Participant's Participant-Specific Constraints are set such that there are at least three (3) other non-affiliated Participants with whom the submitting Participant can be matched for an Energy Exchange as a Buyer.

iii. Participants shall not be required to provide a reason for any Participant-Specific Constraint. The reason for such constraints could be, but is not limited to, the following:

(a) Lack of an Enabling Agreement with a Participant;

(b) Counterparty issues (e.g., credit);

(c) Affiliates restrictions; and

(d) Geographic issues causing supply or delivery point restrictions and related regulatory requirements.

c. Prior to being permitted to submit Bids or Offers, each Participant must affirm that it has executed Service Agreements for Non-Firm Energy Exchange Transmission Service with each Participating Transmission Provider that requires delivery of such agreement or that it otherwise has access to Non-Firm Energy Exchange Transmission Service as to each Participating Transmission Provider through such Participating Transmission Provider's Tariff.

2. Prior to being permitted to provide Non-Firm Energy Exchange Transmission Service, Participating Transmission Providers shall provide sufficient information to permit the Southeast EEM Administrator to create a Network Map of the Southeast EEM Territory for purposes of confirming available capacity for NFEETS along Contract Paths for all potential Energy Exchanges.

3. Participant shall supply the Southeast EEM Administrator with any and all information the Operating Committee deems reasonably necessary for the administration of the Southeast EEM System.

B. Bids and Offers.

1. Delivery Intervals. Each Clock Hour will consist of four (4) Delivery Intervals:

xx:00 to xx:15;

xx:15 to xx:30;

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xx:30 to xx:45; and

xx:45 to xx:00 of the next Clock Hour.

2. Deadlines.

a. For each Clock Hour, every Participating Transmission Provider's available capacity for NFEETS must be available as an input to the Southeast EEM Algorithm no later than fifteen (15) minutes before the start of such next Clock Hour. To the extent a Participating Transmission Provider can update its available capacity for NFEETS within a Clock Hour, such updated information must be available as an input to the Southeast EEM Algorithm no later than fifteen (15) minutes before the start of the applicable Delivery Interval.

b. Each Participating Transmission Provider's Loss Factor and Loss Rate must be available as an input to the Southeast EEM Algorithm no later than fifteen (15) minutes prior to the Clock Hour for which the Loss Factor and Loss Rate are to apply. If the Participating Transmission Provider does not update its Loss Factor and Loss Rate, the values for the prior Clock Hour will apply.

c. Bid and Offers must be submitted through the Southeast EEM System Interface not earlier than seven (7) days prior to the applicable Delivery Interval and not later than fifteen (15) minutes prior to the Delivery Interval for which they are submitted. Participants may modify or cancel previously submitted Bids or Offers at any time before 15 minutes prior to the upcoming Delivery Interval; no further modifications may be submitted to a Bid or Offer within the fifteen (15)-minute period prior to the applicable Delivery Interval.

d. The Southeast EEM System will: 1) match the Bids and Offers for the next Delivery Interval, subject to the constraints and limitations established pursuant to this Appendix; and 2) provide an Energy Exchange Notification to all Participants who were matched as an Energy Exchange for the upcoming Delivery Interval, and 3) submit all necessary transmission reservations and e-Tags ten (10) minutes prior to the relevant Delivery Interval.

3. Bid and Offer Requirements.

a. Each Bid or Offer must include the following components:

i. Participant name.

ii. Whether the submission is a Bid or an Offer.

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iii. An amount of Non-Firm Energy (MW) for the Bid or Offer in increments of 4MW blocks.

iv. For all Offers, an Offer Price and for all Bids, a Bid Price.

v. For all Offers, a Source and for all Bids, a Sink.

vi. The specific Delivery Interval to which the Bid or Offer applies.

vii. Whether the submission: 1) must be matched in full or not at all or 2) can be matched at any volume below the Bid or Offer volume (subject to the 4MW increment rule) ("All or Nothing Selection").

viii. Any other components as may be required for the Southeast EEM System to perform actions set forth in Section IV.C of this Appendix or to generate the reports described in Section V of this Appendix.

b. An Offer may include the maximum Energy Exchange Price that the Participant is willing to accept for a particular Source/Sink pair for the applicable Delivery Interval.

c. Participants are permitted to submit multiple Bids or Offers for the same Delivery Interval with varying Source or Sink locations, as applicable, Non-Firm Energy amounts, and pricing, subject to any limitation on the number of Bids or Offers that may be submitted at any one Source or Sink for a particular Delivery Interval as may be established in the Southeast EEM Manuals.

d. Submission of Bids and Offers is voluntary; Participants are not required to submit any Bids or Offers for any Delivery Interval.

C. Matching.

1. Subject to the constraints defined below and all Bid Information and Offer Information, the Southeast EEM Algorithm will evaluate all Bids and Offers for each Delivery Interval and produce Energy Exchanges.

The Southeast EEM Algorithm will match Bids and Offers so as to result in Energy Exchanges that maximize the Southeast Energy Exchange Market total benefit for the applicable Delivery Interval while simultaneously honoring all the requirements identified in Section IV.A.1 and the constraints identified in Section IV.C.6. The total benefit shall be calculated by aggregating the benefits from each Energy Exchange for the applicable Delivery Interval.

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2. The benefit associated with each Energy Exchange will be calculated by taking the difference between the Bid Price and Offer Price and multiplying it by the MW amount of Non-Firm Energy identified in the Energy Exchange, less the costs of transmission services (Losses) provided along the Contract Path.

3. For any Energy Exchange where the Energy Exchange Price exceeds the maximum value submitted in accordance with Section IV.B.3.b., the Energy Exchange Price will be adjusted down to that maximum value, such that the total benefit associated with the Energy Exchange remains the same, but the benefit allocation will be adjusted in the Buyer's favor.

4. Matching Principles.

a. Whole and/or partial amounts of Non-Firm Energy shall be matched, consistent with the Participant's All or Nothing Selection in its Bid Information or Offer Information.

b. Bids or Offers that can be matched with multiple Participants shall be allowed, subject to the matching rules set forth in this Appendix.

5. Match/Energy Exchange Price.

a. Each Energy Exchange Price will be the sum of: 1) the average of the Bid Price and Offer Price for the Energy Exchange, and 2) half the net Losses for all Transmission Service Providers along the Contract Path, where net Losses equals the Losses paid for by Seller minus the Losses paid for by Buyer.

b. Data demonstrating Losses will be incorporated into the Energy Exchange Price.

i. Each Participating Transmission Provider determines the method for pricing its Losses;

ii. Each Participating Transmission Provider is responsible for updating its Tariff to address how Losses will be priced; and

iii. Loss Rate and Loss Factor are an input into the algorithm by the relevant Participating Transmission Provider.

6. Constraints.

a. Participant-Specific Constraints. In matching Bids and Offers, the Southeast EEM Algorithm will take into account the Participant-Specific Constraints submitted by the Bidders and Offerors in accordance with Section IV.A.1.b.

b. Generally Applicable Constraints.

i. In matching Bids and Offers, the Southeast EEM Algorithm shall not make any Energy Exchanges that would cause the available capacity for NFEETS on any given Contract Path to be exceeded.

ii. Energy Exchanges shall not be made that cause:

(a) A Buyer to purchase more MW than the amount set forth in its Bid;

(b) A Seller to sell more MW than the amount set forth in its Offer; and

(c) For matched Bids and Offers, the Energy Exchange Price to (i) be less than the Offer Price plus half of net Losses, as calculated per Section IV.C.5.a, and (ii) more than the Bid Price minus net Losses, as calculated per Section IV.C.5.a.

iii. The Southeast EEM Algorithm shall only make Energy Exchanges that yield positive benefits to both Buyer and Seller, as defined in Section IV.C.2, after Losses have been considered.

iv. The total MW of potential Energy Exchanges in any Delivery Interval shall not exceed the aggregate amount of Non-Firm Energy identified in the applicable Offers or Bids for such Delivery Interval.

v. A Participant's Bid may not be matched with an Offer made by the same Participant.

vi. The Southeast EEM Algorithm shall not create Energy Exchanges in the same Delivery Interval that would create offsetting Energy Exchanges whereby Participant 1 sells to Participant 2 while Participant 2 sells to Participant 1 during the same interval at the same location.

7. Treatment of Identical Offers or Bids.

a. In the event that multiple Bids or Offers that are at the same price at a Source or Sink are identical which create the same benefit for the Southeast EEM, a randomized preference will be assigned to the Bid(s) or Offer(s).

8. Notification, Scheduling, and Transmission for Energy Exchanges.

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a. After an Energy Exchange for a Delivery Interval is determined:

i. The Bidder and Offeror shall be notified of match via an Energy Exchange Notification.

ii. Transmission reservations and e-Tags shall be automatically created by the Southeast EEM System based on the matches within the time frame noted above. All e-Tags will be sent to the applicable Participating Transmission Provider(s), Balancing Authority(ies) and matched Participants. Consistent with the discretion afforded to Participating Transmission Providers and Balancing Authorities in the NAESB business practices, each participating Balancing Authority within the Territory agrees that it will not reject an e-Tag automatically created by the Southeast EEM System on the basis that it was submitted less than twenty (20) minutes prior to the Delivery Interval but at least ten (10) minutes prior to the Delivery Interval.

iii. The Southeast EEM System will generate and provide sufficient information to Participating Transmission Providers to validate and collect payment for Losses from applicable Buyers and Sellers for each Energy Exchange.

iv. Appropriate OASIS information will be provided to the relevant Participating Transmission Service Providers.

9. The contractual "point of sale" of an Energy Exchange will be at the Buyer's Balancing Authority border for a transaction delivered out of or thru one or more Balancing Authorities. For an Energy Exchange that stays within one Balancing Authority (Source and Sink in same Balancing Authority), the "point of sale" will be at the bus of the Seller's Source. For an Energy Exchange fully delivered to a Buyer's Balancing Authority border, the Participant acting as the Seller will be the responsible party for the transmission service to deliver the Non-Firm Energy to the "point of sale" and the Buyer will be responsible for the transmission service required to sink the Non-Firm Energy. For an Energy Exchange that stays within one Balancing Authority, the Buyer will be the responsible party for the transmission service required to sink the Non-Firm Energy. For avoidance of doubt, Non-Firm Energy Exchange Transmission Service must be used for the entire Contract Path from Source to Sink for all Energy Exchanges.

V. <u>SOUTHEAST EEM ENERGY EXCHANGE REPORTS.</u>

The Southeast EEM Administrator and the Company System Administrators shall create and maintain the reports concerning Energy Exchanges as required by the Operating

Committee. The reports that are provided by the System Administrators shall include, but need not be limited to, the following:

A. **Public Monthly Informational Report.** This report shall be generated by the Southeast EEM Administrator and posted to the Southeast EEM website on or before midnight of the fifth Business Day of the following month and shall include the following information from the prior month:

1. Minimum, maximum, and average match prices;

2. Amount of Non-Firm Energy offered and sold as well as bid and purchased over all Delivery Intervals;

3. Amount of Non-Firm Energy that flowed once matched as an Energy Exchange;

4. Total number of Energy Exchanges;

5. Total benefit to be calculated in accordance with Section IV.C.2;

6. Minimum, maximum, and average MW Energy Exchange amount; and

7. Energy Exchanges made but not executed.

B. **Public Daily Informational Report.** This report shall be generated by the Southeast EEM Administrator and posted to the Southeast EEM website by 6:00 A.M. CPT and shall include the following aggregated information from the prior day:

1. Total number of Bids and Offers during each Clock Hour of the prior day;

2. Amount of Non-Firm Energy offered and sold as well as bid and purchased during each Clock Hour of the prior day;

3. Number of Energy Exchanges executed for each Clock Hour of the prior day;

4. Total number of Participants who submitted Bids for each Clock Hour of the prior day;

5. Total number of Participants who submitted Offers for each Clock Hour of the prior day; and

6. Weighted average match price per Clock Hour.

C. **Public Hourly Informational Report.** This report shall be generated by the Southeast EEM Administrator and posted to the Southeast EEM website fifteen (15) minutes after the applicable Clock Hour and shall include the following aggregated information from the applicable Clock Hour:

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1. Total number of Bids and Offers during that Clock Hour;

2. Amount of Non-Firm Energy offered and sold as well as bid and purchased during that Clock Hour;

3. Number of Energy Exchanges executed for that Clock Hour;

4. Total number of Participants who submitted Bids during that Clock Hour; and

5. Total number of Participants who submitted Offers during that Clock Hour.

VI. AUDITING AND DATA ADMINISTRATION.

A. Archiving of Data. All Southeast EEM System input data necessary to recreate and audit any Delivery Interval, and all Southeast EEM System output data for each Delivery Interval, shall be archived such that at least the three prior months of data can be retrieved in real time. Five (5) years of data shall be archived off-line. Participants may request access to their own data and it shall be made available upon request within 24 hours. Data older than five (5) years shall be deleted at the end of each month on a rolling basis.

B. Access to Southeast EEM System Energy Exchange Data.

1. The Southeast EEM Administrator shall have access, via system software, to the results of the matching process for any Delivery Interval of on-line history. The data to which the System Administrators have access shall include raw Participant data, matched output data, and intermediate results of the algorithm. To be clear, the Southeast EEM Administrator shall be able to run all of the reports available in the system and view the data for all Participants.

2. Each Participant will be required to identify an administrator that is authorized by the Participant to run and review all of the reports available in the Southeast EEM System that are redacted to all show the information related to the Participant it represents (the "Company System Administrator"). The Southeast EEM System will provide each Company System Administrator with the right to grant access to certain reports and related data to identified delegates within the Participant's organization. Each Company System Administrator (and any delegate identified by the Company System Administrator) shall be able to run all of the reports available in the system but receive only the data that belong to the Participant it represents.

C. Additional Southeast EEM Administrator Functions. Subject to the limitations set forth in subsection (B) above, the Southeast EEM Administrator shall employ the system software to perform the following functions:

1. Oversee the matching process;

2. Maintain model data and Southeast EEM System parameters; and

3. View Participant usage statistics and generate Participant benefit reports.

D. Auditing Process. Auditing functions will be performed by the Market Auditor at the direction of the Membership Board. The Market Auditor will report its conclusions, and provide any supporting data in the event that problems are identified to the Membership Board on an after-the-fact, periodic basis. The Membership Board will maintain sole responsibility for determining whether to share the information any further. Auditing functions include the following:

1. Verify that the Southeast EEM System operates in accordance with the Southeast EEM Rules, including the determination and application of Bids, Offers, constraints, matched settlements, OASIS reservations, and e-tags.

2. Ensure that Energy Exchange data is available to the applicable Participants in accordance with the Southeast EEM Rules.

3. Report to the Membership Board any concerns regarding the reliability and accuracy of the Southeast EEM System process and results including any instance of operational problems or anomalies with the functioning of the Southeast EEM System.

4. Provide evaluation regarding the proper function of the Southeast EEM System, and the effectiveness of any Southeast EEM System specific controls in place related to the operation of the Southeast EEM System.

5. Refer any complaints received to the Membership Board, and investigate further at the Membership Board's direction.

6. The Membership Board will be responsible for defining the time interval(s) for the auditing function to be performed and report back to the governing body. Such interval(s) will be published in the Southeast EEM Manuals.

E. Data Administration.

1. Parameters. The Southeast EEM Administrator shall set and maintain the following Southeast EEM System configuration parameters, which shall be posted for access by all Members:

a. The matching process start time for each Clock Hour;

b. The number of minutes before the start of the matching process when no additional Bids and Offers will be accepted;

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c. The number of minutes before the start of the matching process by which the processing of any in-transit Bids and Offers must be completed;

d. The addition or deletion of Participants;

e. The addition or deletion of a Company System Administrator for each Participant;

f. Manage, store, and safeguard data (e.g., Bid, Offer, match, and Participant Information) to ensure appropriate levels of confidentiality and records retention;

g. Grant access to the data on the Southeast EEM System as appropriate;

h. Supply data to Participants involved in Energy Exchanges to complete the applicable transaction, including (but not limited to):

i. Participant identification of the Buyer and the Seller;

ii. Balancing Authority Area identifications for the MWh quoted by the Buyer and the Seller;

iii. e-Tag number;

iv. Transaction quantity in MW/MWh, including the MWh out of the Source area and the MWh into the Sink area;

v. Information specifically related to an Energy Exchange (not price of the other side of the match as may reveal sensitive transmission information);

vi. Energy Exchange Price;

vii. Benefit for the Buyer and the Seller in total dollars and $/MWh; and

viii. Energy Exchanges not executed.

i. Supply needed information/data for auditing functions to ensure that the Southeast EEM System is being properly administered.

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APPENDIX C

SOUTHEAST EEM AGENT SCOPE

The Southeast EEM Agent Scope shall be limited to the following:

a. Subject to paragraph (b) below, the Southeast EEM Agent shall execute contracts with third parties solely as the agent for and on behalf of the Members and not in the Southeast EEM Agent's own name or for its own account.

b. The Southeast EEM Agent shall be empowered to execute contracts only after being given specific written or electronic authorization to do so by the Membership Board, or in the case of minor or unsubstantial contracts, the Operating Committee, in either case as delivered to the Southeast EEM Agent by the Membership Board or the Operating Committee, as applicable.

c. The Southeast EEM Agent shall be authorized to execute amendments to contracts entered into on behalf of the Members, provided that such amendment is authorized by the Membership Board or, in the case of minor or unsubstantial contracts, by the Operating Committee, in either case as delivered to the Southeast EEM Agent by the Membership Board or the Operating Committee, as applicable.

d. For convenience, the Southeast EEM Agent shall be authorized to accept notices under the contracts that it executes on behalf of the Members.

e. The Southeast EEM Agent shall ***not*** be involved in the billing process under the vendor contracts. Third-party vendors will bill the Members directly for their proportionate share of the costs under the contracts executed by the Southeast EEM Agent on behalf of the Members.

f. If certain vendors are unwilling to bill Members directly, the Membership Board shall develop an alternative billing arrangement, such as using a third-party billing agent.

g. The Southeast EEM Agent shall ***not*** have any special role in, or authority over, the operation or administration of the Southeast EEM System. The vendor contracts shall specify that the day-to-day contact for such vendor shall be the Operating Committee, not the Southeast EEM Agent.

h. The Southeast EEM Agent shall not be exposed to incremental liability for actions taken within the Southeast EEM Agent Scope.