Exhibit E

OPERATING AND FUEL AGREEMENT BETWEEN CAROLINA POWER & LIGHT COMPANY AND NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 3 AND EXHIBITS

JULY 30, 1981

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CAROLINA POWER & LIGHT COMPANY
AND
NORTH CAROLINA MUNICIPAL POWER
AGENCY NUMBER 3
AND EXHIBITS

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OPERATING AND FUEL AGREEMENT

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OPERATING AND FUEL AGREEMENT

This Agreement, dated as of July 30, 1981, is between CAROLINA POWER & LIGHT COMPANY ("CP&L"), a corporation organized and existing under Chapter 55 of the General Statutes of North Carolina, known as the Business Corporation Act, with offices in Raleigh, North Carolina, and NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 3 ("Power Agency"), a public body and body corporate and politic organized and existing under Chapter 159B of the General Statutes of North Carolina, known as the Joint Municipal Electric Power and Energy Act, with offices in Raleigh, North Carolina.

RECITALS

(A) CP&L is engaged in the business of generating, transmitting and distributing electric power in portions of the states of North Carolina and South Carolina, and operates its own electric generating facilities.

(B) Power Agency is a joint agency organized by its member municipalities pursuant to Chapter 159B of the General Statutes of North Carolina, known as the Joint Municipal Electric Power and Energy Act, to undertake to plan, finance, develop, own and operate facilities for the generation, transmission, sale and supply of electric power and energy.

(C) CP&L and Power Agency have entered into a Purchase, Construction and Ownership Agreement (Sales Agreement) of even

date herewith for the sale by CP&L to Power Agency of certain undivided ownership interests in the following generating facilities and in Associated Fuel as defined in Section 1.4 of the Sales Agreement (Joint Facilities):

Brunswick Unit No. 1	Harris Unit No. 1
Brunswick Unit No. 2	Harris Unit No. 2
Roxboro Unit No. 4	Harris Unit No. 3
Mayo Unit No. 1	Harris Unit No. 4
Mayo Unit No. 2	

(D) CP&L and Power Agency have entered into a Power Coordination Agreement of even date herewith to establish terms and conditions for provision by CP&L to Power Agency of certain power services and for other matters.

(E) CP&L and Power Agency desire to establish the terms and conditions for the operation and fueling of the Joint Facilities by CP&L on behalf of itself and Power Agency.

OPERATING AND FUEL AGREEMENT

ARTICLE 1

DEFINITIONS

1.1 Adjustment Interest Rate

For any month, the prime rate being charged by the Chase Manhattan Bank of New York on the first day of such month, less one percentage point, divided by twelve, expressed in percentage points, to the nearest hundredth.

1.2 Allowance for Funds Used During Construction (AFUDC)

Capital carrying costs incurred by CP&L during construction which are capitalized as a cost of plant on the books of CP&L in accordance with the FERC Uniform System of Accounts. For the purposes of this Agreement and the Related Agreements, such capital costs shall not reflect any credits associated with inclusion of construction work in progress in the rate base for retail jurisdictions, but shall reflect credits associated with inclusion of pollution control construction work in progress in the rate base for sale for resale jurisdictions.

1.3 Approved Arbitrators List

The list of Arbitrators to be used in resolution of disputes in accordance with Section 16.2(B)(3).

1.4 Arbitrator

The person selected to conduct arbitration in accordance with Section 16.2.

1.5 Brunswick Plant

The Brunswick Plant, formally designated the Brunswick Steam Electric Plant, is an electric generating facility located near Southport, North Carolina, consisting of two (2) operating nuclear-fueled generating units designated Brunswick Unit No. 1 and Brunswick Unit No. 2, support facilities, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, all as more completely described in the Bill of Sale, the form of which is prescribed in Exhibit SA-IV to the Sales Agreement. The boundaries of the Brunswick Plant, each unit thereof and certain of the support facilities are illustrated in Exhibit SA-XV to the Sales Agreement. Transmission facilities located at the site, including step-up transformers having a high side transmission voltage, are not included as part of the Brunswick Plant.

1.6 Brunswick Unit

Brunswick Unit No. 1 or Brunswick Unit No. 2, which are the individual nuclear-fueled electric generating units, associated support facilities, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, located at the Brunswick Plant. Brunswick Unit No. 1 and Brunswick Unit No. 2 are collectively referred to herein as the "Brunswick Units."

1.7 Capital Additions Advance Fund

A fund to be established on the First Closing Date in accordance with Article 8.

1.8 CP&L Customer Ratio

The CP&L Customer Ratio is the ratio of the projected 1982 Annual Peak Resource Demand (as defined in Section 1.4 of the Power Coordination Agreement) of those Participants which were full requirements customers of CP&L prior to the First Closing Date to the projected 1982 Annual Peak Resource Demand of Power Agency's members listed in Exhibit SA-I to the Sales Agreement which were full requirements customers of CP&L prior to the First Closing Date. Such projections shall be furnished to CP&L by Power Agency at least sixty (60) days prior to the First Closing Date.

1.9 CP&L Operating Practice

(A) CP&L Operating Practice means any practice, method or act which, in the exercise of reasonable judgment in light of the facts known at the time a decision is made, would be expected to accomplish the desired result at a reasonable cost consistent with reliability and safety.

(B) The parties acknowledge and agree that in applying this Section 1.9 the following principles shall govern:

(1) CP&L's ownership interests in the facilities subject to this Agreement provide CP&L with the incentive to

choose practices, methods and acts which meet the standard described in this Section 1.9;

(2) CP&L Operating Practice includes, but is not limited to, any practice, method or act engaged in or approved by a significant portion of the electric industry; and

(3) CP&L Operating Practice includes, but is not limited to, practices, methods or acts which are not used by other participants in the electric industry.

(C) CP&L Operating Practice is not limited to the optimum practice, method or act, to the exclusion of all others, but rather includes a number of possible practices, methods or acts.

1.10 <u>CP&L System</u>

All facilities constructed, operated or owned (in whole or in part) by CP&L (except those owned by CP&L but leased to Power Agency or a Participant pursuant to Section 13.3 of the Power Coordination Agreement) or any subsidiary for the purpose of generation, transmission or distribution of electric energy, or related thereto.

1.11 <u>Closing Date</u>

Each date on which a closing takes place pursuant to Article 2 of the Sales Agreement.

1.12 Combined System

The Combined System, for purposes of this Agreement and the Related Agreements, shall consist of the generating facilities at the Joint Facilities, New Resources which may be used to meet Hourly Resource Demand pursuant to Article 6 of the Power Coordination Agreement and all other generating and transmission facilities owned and/or operated by CP&L at present or in the future.

1.13 Commercial Operation

(A) For purposes of this Agreement and the Related Agreements, Commercial Operation commenced for the Brunswick Units and Roxboro Unit No. 4 on the following dates:

Brunswick Unit No. 1 - March 18, 1977
Brunswick Unit No. 2 - November 3, 1975
Roxboro Unit No. 4 - September 16, 1980

(B) For purposes of this Agreement and the Related Agreements, Commercial Operation commences for each Mayo Unit and Harris Unit at 12:01 A.M. the day after one of the following conditions is met:

(1) Continuous operation of the Unit for fifty (50) hours at ninety-nine percent (99%) or greater of its unit design capability (in the case of a Mayo Unit) or one hundred (100) hours at ninety-nine percent (99%) or greater of its licensed reactor power level (in the case of a Harris Unit);

(2) Continuous operation for fifty (50) hours (in the case of a Mayo Unit) or one hundred (100) hours (in the

case of a Harris Unit) within one percent (1%) of any lower capability level established by regulatory or other operating restriction the time period for which is expected to extend beyond thirty (30) days; or

(3) Continuous operation for fifty (50) hours at a point below its unit design capability (in the case of a Mayo Unit) or one hundred (100) hours at a point below its licensed reactor power level (in the case of a Harris Unit) as mutually agreed upon by CP&L and Power Agency, provided that neither party shall unreasonably withhold its agreement.

1.14 Commitment Ratio

Power Agency's Commitment Ratio is the ratio of the projected 1982 Annual Peak Resource Demand (as defined in Section 1.4 of the Power Coordination Agreement) of Power Agency's Participants to the projected 1982 Annual Peak Resource Demand of Power Agency's members listed in Exhibit SA-I to the Sales Agreement. Such projection shall be furnished to CP&L by Power Agency at least sixty (60) days prior to the First Closing Date.

1.15 Compensatory Interest Rate

For any month, the capital related costs of the party to whom interest is owed as described in Exhibit PCA-X of the Power Coordination Agreement, divided by twelve, expressed in percentage [illegible]nts to the nearest hundredth.

1.16 Construction

As relates to the Mayo Units and the Harris Units, Construction shall mean the acquisition and construction of any portion of the Mayo Plant and the Harris Plant, and shall include, without limitation, the planning, design, engineering, licensing, completion and start-up of, and purchasing, accounting, training, quality assurance and administration for, such Units including any additions or modifications thereto commenced or authorized prior to the date of Commercial Operation of the Mayo Unit or Harris Unit as to which such addition or modification relates. As relates to the Brunswick Units and Roxboro Unit No. 4, Construction shall mean the acquisition and construction of any addition to or modification of the Brunswick Units or Roxboro Unit No. 4 which was commenced or authorized prior to the First Closing Date and shall include, without limitation, the planning, design, engineering and completion of, and purchasing, accounting, training, quality assurance and administration for, such addition or modification.

1.17 Cost of Construction

Cost of Construction is all costs incurred in connection with Construction of the Joint Facilities, and shall include, but not be limited to, the following expenses, obligations and liabilities:

(A) All expenses in respect to the Construction of the Joint Facilities, and each portion thereof, which are properly

recordable in appropriate accounts as set forth in FERC's Uniform System of Accounts Prescribed for Class A and Class B Public Utilities and Licenses, 18 C.F.R. Part 101, as it may be amended from time to time; provided, however, that if the construction accounting under the Uniform System is eliminated, then the Cost of Construction of the Joint Facilities shall be determined thereafter by applying the same methods and procedures used by CP&L, at the time such determination is made, in regard to the construction of its other generation facilities. Any allowance for funds used during construction recorded by CP&L as of a Closing Date shall not be included as a Cost of Construction.

(B) The costs of all insurance obtained by CP&L in connection with the Construction of the Joint Facilities pursuant to Section 12.6 of the Sales Agreement, adjusted as appropriate when Power Agency provides substitute insurance either through insurance coverage or through self-insurance pursuant to Section 12.6(E)(2) of the Sales Agreement.

(C) All amounts payable by the Owners pursuant to Article 12 of the Sales Agreement, other than costs of insurance.

(D) All property, sales, use and other similar taxes payable in connection with the Construction of the Joint Facilities.

(E) All indirect costs and all other costs and expenses which are incurred in the Construction of the Joint Facilities. The amount of such indirect and other costs shall be chargeable to each Joint Facility by applying the same allocation methods and procedures described in Section 4.6 of the Sales Agreement.

(F) The cost of employing CP&L managers and technicians and utilizing CP&L methods and technical expertise in the Construction of the Joint Facilities, measured by multiplying the costs identified in Sections 1.17(A), (B), (D), (E) and (G), less land, AFUDC, property taxes and retrospective insurance premium adjustments included therein, by one and one-half percent (1.5%).

(G) Every other cost which is designated in the Sales Agreement as a Cost of Construction.

1.18 Cumulative Closing Ratio

The sum of the First Closing Ratio plus all Subsequent Closing Ratios through the closing to which a Subsequent Closing Ratio is applicable, without regard to the application of the Service Ratio.

1.19 Events of Default

The events described in Section 20.1.

1.20 Federal Energy Regulatory Commission (FERC)

The Federal Energy Regulatory Commission (FERC) is the commission that has jurisdiction over CP&L rates and charges contained in the Power Coordination Agreement and over the system of accounts used by CP&L. FERC shall also mean any successor regulatory commission, agency or department having jurisdiction over those rates, charges and accounting systems.

1.21 Final Closing Date

The date of the Subsequent Closing on which Power Agency completes the purchase, and CP&L completes the conveyance, of the Ultimate Ownership Interest in the Joint Facilities to which Power Agency is committed to purchase under the Sales Agreement.

1.22 First Closing Date

The Closing Date on which Power Agency first purchases, and CP&L first conveys, any part of the undivided ownership interests in Joint Facilities to which Power Agency is committed to purchase under the Sales Agreement.

1.23 First Closing Ratio

Power Agency's First Closing Ratio is the ratio of the portion of Power Agency's Ultimate Ownership Interest in the Joint Facilities which Power Agency shall purchase and CP&L shall convey on the First Closing Date (without regard to the application of the Service Ratio), to Power Agency's Ultimate Ownership Interest in each Joint Facility which Power Agency is committed to purchase under the Sales Agreement.

1.24 Force Majeure

The events or circumstances described in Section 13.2.

1.25 Fossil Fuel Material

Fossil Fuel Material includes coal, oil, natural or synthetic gas and any other combustible fuel material, whether produced by fossilization or not.

1.26 Fossil Fuel Services

Fossil Fuel Services for Roxboro Unit No. 4 and Mayo Units shall be deemed to include, but not be limited t all services related to the loading and transportation of fossil fuel from origin of purchase to plant site which are not included in the cost of Fossil Fuel Material.

1.27 Fuel Management Services

Fuel Management Services, as used in this Agreement, shall be deemed to mean those resources maintained and actions taken by CP&L to provide, manage, and use, on behalf of CP&L and Power Agency, Nuclear Fuel Material, Nuclear Fuel Services, Fossil Fuel Material and Fossil Fuel Services.

1.28 Harris Plant

The Harris Plant, formally designated the Shearon Harris Nuclear Power Plant, is an electric generating facility presently being constructed near New Hill, North Carolina, which will consist of four nuclear-fueled generating units designated

Harris Unit No. 1, Harris Unit No. 2, Harris Unit No. 3 and Harris Unit No. 4, support facilities, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, all as more completely described in the Bill of Sale, the form of which is prescribed in Exhibit SA-IV-1 to the Sales Agreement. The boundaries of the Harris Plant, each unit thereof and certain of the support facilities are illustrated in Exhibit SA-XVI-1 to the Sales Agreement. Transmission facilities located at the site, including step-up transformers having a high side transmission voltage, are not included as part of the Harris Plant.

1.29 Harris Unit

Harris Unit No. 1, Harris Unit No. 2, Harris Unit No. 3 or Harris Unit No. 4, which are the individual nuclear-fueled electric generating units, associated support facilities, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, being constructed at the Harris Plant. Harris Unit No. 1, Harris Unit No. 2, Harris Unit No. 3 and Harris Unit No. 4 are collectively referred to herein as the "Harris Units."

1.30 Incentive Interest Rate

For any month, one twelfth (1/12) of the sum of: (i) the capital related costs of the party to whom interest is owed, as described in Exhibit PCA-X of the Power Coordination

Agreement; and (ii) the difference, on the first day of such month, between the most recently published Moody's electric utility bond yield for the rating category in which CP&L's first mortgage bonds are rated and the corresponding electric utility bond yield for the next lowest rating category. The Incentive Interest Rate shall be expressed in percentage points to the nearest hundredth.

1.31 Initial Fuel Core

Nuclear Fuel Material and Nuclear Fuel Services associated with those fuel batches in the reactors at the Brunswick Plant as of any closing and Nuclear Fuel Material and Nuclear Fuel Services associated with those fuel batches required for the initial start-up and initial operation of the Harris Units.

1.32 Initial Fueling

Initial Fueling is the process of acquiring and utilizing the Initial Fuel Cores in the case of nuclear fuel, or the Initial Stockpile in the case of fossil (coal and start-up fuel oil) fuel, necessary and sufficient for the start-up and placing into Commercial Operation of the Harris Units and the Mayo Units, respectively, and for the operation for an initial period consistent with the fuel plan for such Units (including the fuel cycle for nuclear fuel and the stockpile for fossil fuel). Initial Fueling shall include (but shall not be limited to), with respect to such fuel, the solicitation and acceptance of bids for the

supply thereof, the securing of necessary fuel-processing services, the transportation to a Harris Unit or a Mayo Unit and the handling and consumption at any Harris Unit or Mayo Unit. In the case of nuclear fuel, Initial Fueling does not include Reload Fuel, as defined in Section 1.57. In the case of fossil fuel, Initial Fueling does not include fossil fuel in excess of Initial Stockpiles. The Owners' rights and obligations with respect to fossil fuel other than Initial Stockpiles are covered by this Agreement.

1.33 Initial Stockpile

The Initial Stockpile shall be that coal and start-up fuel oil inventory (i) required for the initial start-up, testing and commencement of sustained operation of each coal-fired unit at the Mayo Plant, and (ii) stored at the Roxboro Plant as of each Closing Date which is to be used in the operation of (or properly allocable to) Roxboro Unit No. 4.

1.34 Joint Facilities

The Joint Facilities are the Brunswick Units, the Harris Units, the Mayo Units, Roxboro Unit No. 4, and Associated Fuel (as defined in Section 1.4 of the Sales Agreement) for such Units, or any of them or any portion thereof, ownership interests in which are to be conveyed to Power Agency pursuant to this Agreement.

1.35 Joint Units

The Joint Units are Brunswick Unit No. 1 and Brunswick Unit No. 2, Mayo Unit No. 1 and Mayo Unit No. 2, Harris Unit No. 1, Harris Unit No. 2, Harris Unit No. 3 and Harris Unit No. 4 and Roxboro Unit No. 4, ownership interests in which are to be conveyed to Power Agency pursuant to the Sales Agreement.

1.36 Late Payment Interest Rate

For any month, the capital related costs of CP&L as described in Exhibit PCA-X of the Power Coordination Agreement, divided by twelve, expressed in percentage points to the nearest hundredth.

1.37 Liaison Representative

The CP&L employee whose duties and responsibilities with respect to Power Agency are as described in Section 12.2.

1.38 MNDC

Maximum Net Dependable Capability (MNDC) in kilowatts (KW) shall be the dependably attainable value for main unit capability less auxiliaries of the Brunswick Units, the Mayo Units, the Harris Units, and Roxboro Unit No. 4 as such level is established from time to time after Commercial Operation in accordance with Article 12 of the Power Coordination Agreement.

1.39 Mayo Plant

The Mayo Plant, formally designated the Mayo Electric Generating Plant, is an electric generating facility presently being constructed in Person County, North Carolina, which will consist of two coal-fired generating units designated Mayo Unit No. 1 and Mayo Unit No. 2, support facilities, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, all as more completely described in the Bill of Sale, the form of which is prescribed in Exhibit SA-IV to the Sales Agreement. The boundaries of the Mayo Plant, each unit thereof and certain of the support facilities are illustrated in Exhibit SA-XVII to the Sales Agreement. Transmission facilities located at the site, including step-up transformers having a high side transmission voltage, are not included as part of the Mayo Plant.

1.40 Mayo Unit

Mayo Unit No. 1 or Mayo Unit No. 2, which are the individual coal-fired electric generating units, associated support facilities, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, being constructed at the Mayo Plant. Mayo Unit No. 1 and Mayo Unit No. 2 are collectively referred to herein as the "Mayo Units."

1.41 Municipal System

A municipality in North Carolina which has become, or which may hereafter become a member of Power Agency. A list of the Municipal Systems is attached as Exhibit SA-II to the Sales Agreement.

1.42 North Carolina Utilities Commission (NCUC)

The North Carolina Utilities Commission (NCUC) or any successor regulatory commission, agency or department having jurisdiction over the retail sale of electricity by CP&L in North Carolina.

1.43 Nuclear Fuel Material

Nuclear Fuel Material is material which is the source of fissionable nuclei required to produce power in nuclear units.

1.44 Nuclear Fuel Services

Nuclear Fuel Services for the Brunswick and Harris Units shall be deemed to include, but not be limited to, such services as the following:

(1) Conversion of U308 to UF6 (uranium hexafluoride);

(2) Enrichment of UF6 in the isotope U-235 (whether provided by the Department of Energy, by any successor agency or department, or by another enrichment facility);

(3) Fabrication of fuel assemblies, including spares, which shall include, but not be limited to, the following:

(i) all materials, labor and services (with the exception of Nuclear Fuel Material) necessary to produce finished fuel assemblies suitable for insertion into a Brunswick or Harris Unit;

(ii) such fuel design, fuel management, and fuel-related licensing services as may be obtained under an applicable CP&L contract for the fabrication of fuel assemblies;

(4) Supply of nuclear fuel-related material and hardware, such as burnable poisons, replacement or additional control rods, channels, orifice rods, neutron sources, and other such components;

(5) All transportation, storage, weighing, sampling, and other services used to carry out the above activities;

(6) Any special handling, processing, insurance and safeguards which are used; and

(7) In addition, Nuclear Fuel Services shall include back-end services. The parties recognize that certain back-end services must be performed on the Initial Fuel Cores and Reload Fuel and other related fuel hardware after discharge from the Brunswick Units and the Harris Units. These services are presently envisioned to include, but are not limited to:

(i) spent fuel storage;

(ii) spent fuel shipping;

(iii) spent fuel processing;

(iv) waste disposal and/or management;

(v) uranium hexafluoride conversion;

(vi) plutonium oxide conversion;

(vii) plutonium storage;

(viii) safeguards and insurance; and

(ix) weighing, sampling and assaying associated with the above.

1.45 Nuclear Regulatory Commission (NRC)

The Nuclear Regulatory Commission (NRC) is the commission that has jurisdiction over the construction and operation of nuclear power plants. NRC shall also mean any successor federal regulatory commission, agency or department having jurisdiction over the construction and operation of nuclear power plants.

1.46 Operations Review Committee

The Committee whose duties and responsibilities are described in Section 12.1.

1.47 Output

The net amount of electric power, measured in kilowatt hours, supplied in any hour by a generating unit to the transmission system. Output is determined by subtracting all auxiliary power used by the unit during each hour from the metered gross kilowatt hours generated by the unit during each such hour, but, as used in this Agreement shall not be less than zero.

1.48 Owner

Either CP&L (in CP&L's capacity as an owner of interests in Joint Facilities) or Power Agency.

1.49 Ownership Interest

Power Agency's Ownership Interest in any Joint Facility at any time is the aggregate of the undivided ownership interests (expressed as percentages) which Power Agency has purchased, and CP&L has conveyed to Power Agency, at and through the closings provided for in Article 2 of the Sales Agreement.

Ownership Interest in the Mayo Units and the Harris Units at any time shall be a percentage equal to the product of the Ultimate Ownership Interest times the Cumulative Closing Ratio; provided, however, that at all times, Power Agency's Ownership Interest in the Mayo Units and the Harris Units shall be subject to adjustment as set forth in Sections 14.3, 14.4 and 25.1 of the Sales Agreement. Ownership Interest in the Brunswick Plant and Roxboro Unit No. 4 shall be a percentage equal to the product of the Ultimate Ownership Interest times the Cumulative Closing Ratio times the Service Ratio; provided, however, that at all times, Power Agency's Ownership Interest in the Brunswick Units and Roxboro Unit No. 4 shall be subject to adjustment in accordance with Sections 14.3 and 14.4 of the Sales Agreement. Following the Final Closing Date, Ownership Interest in any Joint Facility shall be equal to the Ultimate Ownership Interest except as Ownership Interest may be modified pursuant to Sections 14.3, 14.4 or 25.1 of the Sales Agreement.

1.50 Ownership Offering

As relates to any Joint Facility, the Ownership Offering in a unit or other facility is the undivided ownership interest (expressed as a percentage) which CP&L has made available for purchase by Power Agency pursuant to the Sales Agreement. The Ownership Offering in each of the Joint Facilities is set forth in Section 2.1(A) of the Sales Agreement.

1.51 Participant

A Municipal System which prior to the First Closing Date has entered into a Project Power Sales Agreement and a Supplemental Power Sales Agreement with Power Agency, in the forms prescribed in Exhibits SA-VII and SA-VIII to the Sales Agreement, for the supply by Power Agency of capacity and energy to such Participant.

1.52 Power Coordination Agreement

The agreement, dated concurrently herewith, between CP&L and Power Agency establishing the terms and conditions for provision by CP&L to Power Agency of certain power services and other matters, which is entitled the Power Coordination Agreement.

1.53 Project Power Sales Agreement

An agreement which is in the form of Exhibit SA-VII to the Sales Agreement between Power Agency and a Participant.

1.54 Purchased Capacity

Capacity purchased by CP&L in accordance with Section 9.1 of the Power Coordination Agreement.

1.55 Purchased Energy

Energy associated with Purchased Capacity as described in Section 9.2 of the Power Coordination Agreement.

1.56 Related Agreements

Those agreements described in Sections 1.52 and 1.60.

1.57 Reload Fuel

Nuclear Fuel Material and Nuclear Fuel Services associated with those fuel batches which are not pa [illegible] the Initial Fuel Cores for the Brunswick and Harris Uni[illegible] which have been specifically designated to a particular Brunswick or Harris Unit in accordance with Section 3.2.

1.58 Roxboro Common Support Facilities

The Roxboro Common Support Facilities are the support facilities located at the Roxboro Steam Electric Plant needed in the operation of Roxboro Unit No. 4 and not directly associated solely with Roxboro Unit No. 4.

1.59 Roxboro Unit No. 4

Roxboro Unit [illegible], is the individual coal-fired electric generating unit placed in Commercial Operation in 1980 at the Roxboro Steam Electric Plant near Roxboro, North Carolina, the support facilities directly associated solely with such

unit, spare parts, tools and equipment and any capitalized construction materials and supplies on hand, all as more completely described in the Bill of Sale, the form of which is prescribed in Exhibit SA-IV to the Sales Agreement. The boundaries of Roxboro Unit No. 4 are illustrated in Exhibit SA-XVIII to the Sales Agreement. Transmission facilities located at the site, including step-up transformers having a high side transmission voltage, are not included as part of Roxboro Unit No. 4.

1.60 Sales Agreement

The agreement, entitled the Purchase, Construction and Ownership Agreement, dated concurrently herewith, between CP&L and Power Agency establishing the terms and conditions for the sale to Power Agency of certain undivided ownership interests in the Joint Facilities, and for the Construction, Initial Fueling and placing into Commercial Operation by CP&L of the Joint Facilities.

1.61 Service Ratio

For the period beginning with the First Closing Date through November 30, 1982, the Service Ratio used in any closing shall be a decimal fraction equal to .69 divided by the Cumulative Closing Ratio, but not greater than 1.0. For the period beginning with December 1, 1982, the Service Ratio used in any closing shall be 1.0.

1.62 Site Representative

The Power Agency representative whose duties and responsibilities are described in Section 2.2(H)(1).

1.63 Subsequent Closing Ratio

As is applicable to each Subsequent Closing, Power Agency's Subsequent Closing Ratio is the ratio of the portion of Power Agency's Ultimate Ownership Interest in the Joint Facilities which Power Agency shall purchase and CP&L shall convey at such Subsequent Closing (without regard to the application of the Service Ratio), to Power Agency's Ultimate Ownership Interest in each Joint Facility.

1.64 Subsequent Closings

The closings provided for in Section 2.1(B)(1)(b) of the Sales Agreement after the First Closing Date at and through which Power Agency shall purchase and CP&L shall convey the remaining portion of Power Agency's Ultimate Ownership Interest in each Joint Facility.

1.65 Supplemental Power Sales Agreement

An agreement in the form of Exhibit SA-VIII to the Sales Agreement between Power Agency and a Participant.

1.66 Ultimate Ownership Interest

Power Agency's Ultimate Ownership Interest in any Joint Facility is the Ownership Offering in such Joint Facility times the Commitment Ratio.

1.67 Unit

Brunswick Unit No. 1; Brunswick Unit No. 2; Mayo Unit No. 1; Mayo Unit No. 2; Harris Unit No. 1; Harris Unit No. 2; Harris Unit No. 3; Harris Unit No. 4; or Roxboro Unit No. 4.

1.68 Uranium Account

The account established pursuant to Section 7.5 for Nuclear Fuel Material and Nuclear Fuel Services associated with all unenriched uranium material to which CP&L holds title (or has interest in or has the right to use by lease or otherwise) regardless of chemical form and which has not yet been designated to a specific unit in accordance with Section 3.2.

1.69 Uranium Venture Account

The account to which advances made by Power Agency for exploration, mining or other ventures undertaken by CP&L, alone or with others, for the purpose of attempting to obtain uranium material or for evaluation of potential projects are credited in accordance with Section 7.6(C).

1.70 Working Capital Fund

A fund to be established on the First Closing Date in accordance with Article 8.

ARTICLE 2

OPERATION AND MAINTENANCE AND CAPITAL ADDITIONS

2.1 General Obligations

(A) Power Agency hereby engages and employs CP&L, as operator, to operate and maintain Power Agency's Ownership Interests in the Joint Facilities, and CP&L hereby agrees so to act. Power Agency also hereby engages and employs CP&L as project manager for all capital additions to the Joint Facilities, and CP&L hereby agrees so to act. In performing the work, CP&L shall act as an independent contractor as to Power Agency.

(B) Subject to the provisions and conditions set forth below, limitations and requirements of personnel and equipment, or technical specifications, applicable licenses, environmental and other regulations and any other applicable limitations, CP&L shall operate and maintain the Joint Facilities in accordance with CP&L Operating Practice, and shall treat all expenditures made for operation and maintenance in a manner consistent with CP&L's usual accounting, control and approval procedures as modified by this Agreement.

(C) The Joint Facilities shall be operated by CP&L as part of the Combined System.

(D) CP&L shall schedule the Output from and dispatch the Joint Facilities as provided in Article 3 of the Power Coordination Agreement.

(E) Each party recognizes that the operation of nuclear-fueled and fossil-fired electric generating plants is a complex undertaking, and is exposed to a variety of problems, unforeseen or otherwise. Each party also recognizes the importance of advising the other party of major problems or other matters which may affect the other party's costs or the ability of either party to perform its duties and responsibilities under this Agreement. Each party, therefore, shall cooperate with and assist the other party in fulfilling and discharging all responsibilities assumed under this Agreement. This general undertaking of mutual cooperation and assistance shall not be deemed to replace or modify in any respect the specific responsibilities and obligations of each party as described in this Agreement.

(F) It is recognized that Output from the Joint Facilities will be integrated with CP&L's other generating facilities. Additionally, Power Agency will receive backup and supplemental power pursuant to the Power Coordination Agreement from other generating units on, or other resources available to, the Combined System. The parties recognize that it is in their mutual interests that, under special circumstances, resources devoted to the Joint Facilities, or any portion thereof, be diverted temporarily to meet the needs of other generating units on the Combined System and that resources devoted to other generating units be so diverted to the Joint Facilities.

2.2 Scope of Obligations

Pursuant to the provisions of Section 2.1, CP&L shall endeavor to furnish adequate qualified personnel and all supervision, labor, equipment, tools, materials, supplies and incidentals necessary to operate and maintain the Joint Facilities. In performing its obligations under this Article 2, CP&L shall act in a timely manner in accordance with CP&L Operating Practice as defined in Section 1.9. Each of the parties also recognizes that the operation of, fueling and maintenance of, and capital additions to nuclear-fueled electric generating plants are subject to applicable law and licensing by the United States Nuclear Regulatory Commission ("NRC") and that CP&L has been or will be authorized by the NRC to direct and control such activities on a day-to-day basis. In addition, each of the parties recognizes that the operation of, fueling and maintenance of, and capital additions to fossil-fired electric generating plants are subject to applicable law. Accordingly, the parties agree that in no event shall CP&L be required to act or refrain from acting or to suffer any act or omission inconsistent with NRC licensing requirements or with any other applicable law. Except as may otherwise be provided in Article 12, CP&L's control, authority, and responsibility, without limitation but subject to the provisions as indicated, shall include the following:

(A) Plant Staffing and Labor Relations -- CP&L, as operator, shall determine the organizational structure, manpower requirements, and contractual arrangements with third parties for the operation and maintenance of the Joint Facilities. CP&L shall set wages, benefits, and compensation for all CP&L personnel, and shall employ, bargain with, transfer, discipline, terminate, and otherwise manage all such personnel. Except where a contractual arrangement with third parties is applicable, settlement of strikes, lockouts and other industrial disturbances shall be solely in the discretion of CP&L. CP&L shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in the sole judgment of CP&L, unfavorable to CP&L, either with respect to the Joint Facilities or any other interest of CP&L, including the effect on the CP&L System as a whole or on the Combined System. Where a contractual arrangement with third parties is applicable, nothing contained in this Agreement shall require the settlement of strikes, lockouts and other industrial disturbances, and the contractor shall not be required by this Agreement to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties. In carrying out the functions described in this Section 2.2(A), CP&L shall act in accordance with its standard practice and procedures.

(B) Materials and Services -- CP&L, as operator, shall arrange for and procure such materials, special engineering studies, research, analysis, inspections and other services as are necessary or desirable for the operation, maintenance and fueling of, and capital additions to the Joint Facilities in accordance with CP&L Operating Practice, including the direct sale of any such material or service by CP&L, as operator, to the Owners.

(C) Fuel Supply Management

(1) CP&L shall determine core performance and the design length of each fuel cycle for the Brunswick and Harris Units and shall have the right to regulate the load on each of the Brunswick and Harris Units or commence refueling of such Units prior to or later than the optimum burnup of the fuel in accordance with CP&L Operating Practice.

(2) When disruptions in the supply or transportation of fossil fuels arising from an event of Force Majeure cause stockpiles on the Combined System to reach levels which require energy conservation measures, or when such disruptions cause stockpiles at particular plants on the Combined System to reach levels which threaten continued operations at such plants, CP&L shall have the right to regulate the load on Roxboro Unit No. 4 and the Mayo Units to take account of such disruptions, including taking such action as is necessary to levelize the supply of the fossil fuel involved in terms of number of days of supply, at each plant on the Combined System.

(D) Energy Management -- CP&L, as operator, shall determine outage schedules, shutdown times and start-up times for the Joint Facilities.

(E) Notification of Management Decisions -- CP&L shall advise Power Agency of determinations made pursuant to Sections 2.2(C) and 2.2(D) and such notification shall include a brief explanation of the reasons for such determinations. The Site Representative at the plant affected by CP&L's determinations or another representative designated by Power Agency may, upon request, meet with appropriate personnel of CP&L to discuss such determinations and the reasons therefor.

(F) Payment of Disputed Costs -- If Power Agency institutes arbitration, in accordance with the provisions of Article 16, regarding the determinations made by CP&L pursuant to Sections 2.2(C) and 2.2(D), CP&L may take any action it reasonably deems necessary, in accordance with CP&L Operating Practice, taking account of economic, reliability, safety or regulatory considerations, pending the resolution of the dispute, and any costs incurred as a result of such actions shall be apportioned between the Owners and shall be payable pursuant to Section 9.1. The final apportionment of such costs shall be made in accordance with the determination of the Arbitrator.

(G) Operating Reports and Information

(1) CP&L, on behalf of the Owners, shall prepare, execute and file all applications, reports, amendments and other documents and filings relating to the operation of the Joint

Facilities to be submitted to the NRC or any other federal, state or local governmental agency or body. CP&L shall inform Power Agency as to the identity of monthly and annual financial and operating reports and schedules on the Joint Facilities normally prepared by CP&L including, but not limited to, reports concerning the cost of operation, maintenance and fueling, generating and operating statistics, quality assurance and regulatory inspections. Upon specific request Power Agency shall be entitled regularly to receive copies of any such report identified by CP&L. CP&L shall have the right to submit, in any form, any report or information relating to the operation of the Joint Facilities to any other entity;

(2) Power Agency shall provide CP&L promptly with any information or assistance requested by CP&L (a) for the purpose of preparing or submitting any report or information described in Section 2.2(G)(1), or (b) in order to facilitate the operation of the Joint Facilities. Such assistance to CP&L shall include, without limitation, joining with CP&L in the filing of any documents to be filed, executing all such documents, and doing all such other acts and things as are necessary, appropriate or helpful;

(3) CP&L need not make available to Power Agency any reports or information relating to personnel relations, staffing relations (except staffing levels) or labor relations at or connected with the operation of the Joint Facilities;

(4) On the written request of Power Agency, CP&L shall provide to it such information or make such reports relating to the operation, maintenance, or fueling of or capital additions to the Joint Facilities, or assistance in making reports on such matters, in addition to those provided for in Section 2.2(G)(1), as Power Agency may require. The cost thereof shall be borne by Power Agency.

(H) Site Representative and Plant Visits

(1) Power Agency may have a Site Representative for observing, in the interest of Power Agency, the operation, maintenance and fueling and the costs thereof at the Brunswick Plant, Roxboro Unit No. 4 and, following the first date of Commercial Operation of a Unit thereat, the Harris Plant and the Mayo Plant. The Site Representative at each plant or at Roxboro Unit No. 4 shall have complete access to the Joint Facilities at such plant or at Roxboro Unit No. 4. The Site Representative may have additional support personnel located on the plant sites, but such support personnel shall not be authorized to represent Power Agency, nor have access to the Joint Facilities except as authorized by CP&L's plant manager or other specified personnel, who shall not unreasonably deny such access. The Site Representative and support personnel shall: (a) cooperate with CP&L and any contractors engaged by CP&L in order to minimize interference with the operation, maintenance and fueling of the Joint Facilities, or any part thereof; and (b) comply with all regulations of any governmental

agency and those which CP&L and any contractors engaged by CP&L reasonably impose in the operation of CP&L's generating plants.

CP&L shall provide such reasonable facilities and assistance at the Joint Facilities for the Site Representative and his support personnel as may be required for them to carry out their work, and the cost thereof shall be borne by Power Agency.

The Site Representative and support personnel shall be employed and paid by Power Agency. Neither the Site Representative nor any support personnel shall have the right to supervise or issue orders to CP&L personnel or personnel of any contractor engaged by CP&L.

(2) Upon reasonable prior notice, other authorized representatives of Power Agency shall have the right to visit the Joint Facilities. Visitors shall be required to comply with all requirements which any governmental agency imposes, or CP&L or its contractors impose, for safety or security reasons, including, but not limited to, personal search.

(3) The Owners mutually recognize that it may be beneficial to have members of the public visit the Joint Facilities. CP&L shall cooperate with Power Agency in arranging such visits requested by Power Agency, but CP&L shall have the right to exclude such visitors or reschedule such visits, in order to minimize any interference with the operation of the Joint Facilities.

(I) Load Reduction and Plant Shutdown -- CP&L shall have the right to reduce load or shut down the Joint Facilities, or any Unit thereof, with such frequency and for such periods of time as CP&L deems necessary (1) upon order of any branch of government having jurisdiction, (2) in accordance with applicable regulatory requirements, (3) in accordance with CP&L Operating Practice, or (4) as otherwise recommended by Power Agency and approved by CP&L.

(J) Miscellaneous -- CP&L may take all steps and actions which it deems necessary or appropriate to carry out its obligations pursuant to this Article 2 in accordance with CP&L Operating Practice.

(K) Retired Equipment -- CP&L shall have the right of first refusal to purchase any equipment, goods, or materials retired from use at the Joint Facilities. Proceeds from any such sale shall be credited directly toward the replacement cost of such item, or if no replacement is necessary, net proceeds shall be credited to the Owners in accordance with their respective ownership interests in such Joint Facility.

In the event any such equipment, goods, or materials are sold to other than a party to this Agreement, then the net proceeds shall be credited to the Owners in accordance with their respective ownership interests in such Joint Facility.

2.3 Capital Additions

(A) In order to comply with governmental regulations or to promote safe, environmentally sound, economical, efficient or reliable operations, capital additions to the Joint Facilities will be made over the life of the Units and the support facilities. Either Owner may propose such a capital addition which it believes is needed for regulatory, safety, environmental, economic, efficiency or reliability reasons.

(B) The Sales Agreement shall govern (1) capital additions to the Mayo or Harris Units authorized prior to Commercial Operation of the Unit to which the capital addition relates and (2) capital additions to the Brunswick Units or Roxboro Unit No. 4 commenced or authorized prior to the First Closing Date. This Agreement shall govern all other capital additions to the Joint Facilities. Sections 2.3(C) through 2.3(P) apply only to capital additions governed by this Agreement.

(C) CP&L's fee for serving as project manager for capital additions shall be determined in the same manner as set forth in Section 1.18 and Exhibit SA-VI of the Sales Agreement.

(D) CP&L shall classify each capital addition to a Joint Facility which is part of a project having an estimated cost exceeding $20,000 and with which it determines to proceed into one of the following categories:

(1) Capital additions undertaken pursuant to a directive of a governmental regulatory agency which directs that the specific capital addition, or its equivalent, be made;

(2) Capital additions required to comply with a directive of a governmental regulatory agency, or to comply with a policy adopted or expressed by such an agency without embodiment in a directive, where such directive or policy imposes or creates a requirement or objective without directing that a specific capital addition be undertaken;

(3) Capital additions not required by a directive or policy of a governmental regulatory agency which are undertaken to improve or maintain safe, reliable, or environmentally sound operations or to maintain economic or efficient operations;

(4) Capital additions not required by a directive or policy of a governmental regulatory agency which are undertaken to improve the economy or efficiency of operations;

(5) All other capital additions.

(E) CP&L shall give written notice to Power Agency that a capital addition is needed. Such notice shall include: (1) CP&L's estimate of the cost of such capital addition (including fees payable to CP&L) and the portion of such costs CP&L has determined to be properly allocable to Power Agency; (2) the intended purpose of such capital addition; and (3) for

projects which CP&L is required to classify under the terms of Section 2.3(D), a designation of the category enumerated in Section 2.3(D) into which the addition falls.

(F) Determinations and decisions by CP&L concerning capital additions which CP&L is not required to classify under the terms of Section 2.3(D) shall be subject to challenge by Power Agency and to arbitration under the provisions of Article 16 solely on the issues enumerated in Sections 2.3(I)(4) and 2.3(I)(5).

(G) CP&L's services as project manager shall at all times be subject to all the provisions applicable to such services contained in this Agreement (including, without limitation, Articles 15 and 16 and Section 25.11(C)) and the provisions of the Sales Agreement with respect to CP&L acting as project manager.

(H) A capital addition shall be deemed approved by Power Agency unless, within sixty (60) days after the date of notice given under Section 2.3(E), Power Agency advises CP&L in writing of its objections to such capital addition, stating in detail the basis for its objections and the issues it may wish to arbitrate under Sections 2.3(I) and 2.3(J).

(I) In any arbitration concerning a capital addition proposed by CP&L which is subject to arbitration under this Section 2.3(I), the issues to be determined by the Arbitrator shall be limited to:

(1) For any capital addition classified under the terms of Section 2.3(D), a determination whether the capital addition was properly designated by CP&L as falling into said category.

(2) For a capital addition classified by CP&L in category (2) of Section 2.3(D), a determination whether, in light of conditions existing at the time CP&L proposed the capital addition and known to CP&L, the addition could not reasonably be expected to comply with the directive or policy of a governmental agency, such compliance having been identified by CP&L as the intended purpose of the capital addition in its notice given under Section 2.3(E).

(3) For a capital addition classified by CP&L in category (3), (4) or (5) of Section 2.3(D), (a) whether, in accordance with CP&L Operating Practice and in light of conditions existing at the time CP&L proposed the addition, it could not reasonably be expected to accomplish the intended purpose which CP&L identified in its notice under Section 2.3(E); and (b) whether CP&L's purpose in undertaking the capital addition was in accordance with CP&L Operating Practice.

(4) For any capital addition, whether the proposed allocation of the costs thereof to a Joint Facility is proper in accordance with CP&L Operating Practice and the applicable terms of this Agreement.

(5) For any capital addition, whether the costs thereof actually charged to Power Agency have been properly allocated in accordance with CP&L Operating Practice and the applicable terms of this Agreement.

(J) Notwithstanding Power Agency's right and obligation to respond to a notice given by CP&L pursuant to Section 2.3(E), CP&L at any time may proceed with the planning, design and/or construction of a proposed capital addition to any Unit of the Joint Facilities. If CP&L determines so to proceed, it shall give Power Agency a written notice thereof ("Notice of Intent to Proceed"), and Power Agency shall pay its proportionate share thereof in accordance with Section 9.3.

(1) If Power Agency has responded to the notice provided to it pursuant to Section 2.3(E) with written objections pursuant to Section 2.3(H) and CP&L sends Power Agency a Notice of Intent to Proceed, Power Agency may, within ninety (90) days after it received such Notice of Intent to Proceed, notify CP&L in writing of its intention to arbitrate a capital addition under Section 2.3(I)(1) through (4). At any time, but in any event no later than twelve months after April 1 of the year following the year in which Power Agency has received its Final Additions Monthly Statement relating to a capital addition, Power Agency may challenge in accordance with Section 9.6 and, pursuant to such Section 9.6, give CP&L notice of its intention to arbitrate

under Section 2.3(I)(5) with respect to such capital addition, and provision by Power Agency of written objections pursuant to Section 2.3(H) shall not be a prerequisite to the giving of such notice by Power Agency.

(a) If Power Agency so advises CP&L of its intention to arbitrate a capital addition classified by CP&L in category (1), (2), (3) or (4) of Section 2.3(D), CP&L may continue with the planning, designing, and/or construction of the proposed capital addition and Power Agency shall be obligated to pay CP&L, in accordance with Section 9.3, its proportionate monthly share of the costs of such capital addition incurred from the date of Power Agency's notice of intention to arbitrate to the date of the Arbitrator's decision.

(b) If Power Agency advises CP&L of its intention to arbitrate a capital addition classified by CP&L in category (5) of Section 2.3(D), CP&L may continue with the planning, designing and/or construction of the proposed capital addition but Power Agency shall not be obligated to continue to pay CP&L, in accordance with Section 9.3, its proportionate share of the costs of such capital addition incurred from the date of Power Agency's notice of intention to arbitrate to the date of the Arbitrator's decision.

(2)(a) If CP&L has proceeded with a capital addition classified by CP&L in category (1), (2), (3) or (4) of Section 2.3(D) pursuant to this Section 2.3(J) and the matter is arbitrated and the Arbitrator determines the issues

enumerated in Section 2.3(I) adversely to CP&L, CP&L shall reimburse Power Agency only for such part of Power Agency's proportionate share of the costs of the capital addition (including fees) incurred on and after the date of the notice of intention to arbitrate as the Arbitrator shall award to Power Agency plus simple interest calculated at the Incentive Interest Rate. CP&L shall have the right, to the extent it chooses to do so, to cure any defects found by the Arbitrator in the application of the standards enumerated in Section 2.3(I) within a time limit set by the Arbitrator, in which case, if approved by the Arbitrator, Power Agency shall be responsible for its full proportionate share of the costs of this capital addition.

(b) If CP&L has proceeded with a capital addition classified by CP&L in category (5) of Section 2.3(D) pursuant to this Section 2.3(J) and the matter is arbitrated and the Arbitrator determines the arbitrable issues enumerated in Section 2.3(I) adversely to Power Agency, Power Agency shall reimburse CP&L only for such part of Power Agency's proportionate share of the costs of the capital addition (including fees) incurred on and after the date of its notice of intention to arbitrate as the Arbitrator shall award to CP&L plus simple interest calculated at the Incentive Interest Rate.

(3) If CP&L has proceeded pursuant to this Section 2.3(J) and the matter is arbitrated, after the Arbitrator decides the applicable issues enumerated in Section 2.3(I),

Power Agency shall make payments (including fees) to CP&L required to complete the capital addition, in accordance with the decision of the Arbitrator.

(K) When Power Agency proposes a capital addition, it shall designate the category enumerated in Section 2.3(D) into which such addition falls and provide an estimate of the cost thereof. Within ninety (90) days after receipt of such notice, CP&L shall inform Power Agency in writing whether it will proceed with such capital addition. If CP&L determines to proceed with such capital addition, the parties shall proceed in the same manner as though CP&L had proposed the capital addition pursuant to this Section 2.3. The costs thereof shall be borne by the Owners in accordance with Section 9.3 and CP&L shall act as project manager. If CP&L determines not to proceed with such capital addition, such determination shall be subject to arbitration in accordance with procedures set out in Article 16. The question to be determined by the Arbitrator shall be limited to whether or not CP&L's determination not to proceed with such capital addition is in accordance with CP&L Operating Practice. If the Arbitrator determines this issue adversely to CP&L, CP&L shall proceed as project manager with the design and construction of such capital addition, but CP&L or Power Agency may seek arbitration in accordance with the provisions of Article 16 concerning any further disputes which may arise

concerning the design and construction of such capital addition. If the Arbitrator decides that CP&L's determination not to proceed was in accordance with CP&L Operating Practice, CP&L shall not be required to proceed with such capital addition.

(L) If either Owner proves to the reasonable satisfaction of the other Owner that funds are unavailable to it for a capital addition, the Owner proving its shortage of funds shall enter into an agreement, the principles of which are outlined in Exhibit OFA-II, covering an arrangement for the payment of the costs of the capital addition and repayment thereof. Failure of such Owner either to furnish its share of the costs of a capital addition or to enter into such agreement in accordance with this Section 2.3(L) shall be an Event of Default under Article 20.

(M) With respect to capital additions, the $20,000 figure set forth in Sections 2.3(D) and 2.3(P) is a base amount, and shall be adjusted annually (as of January 1 of each year) as follows: (1) fifty-five percent (55%) of said base amount shall be adjusted to reflect the increase or decrease, if any, in the index of "Average Hourly Earnings, Electrical Equipment and Supplies Industry" (SIC-36), as published in "Employment and Earnings", above or below such index for the month of December 1980, and (2) forty-five percent (45%) of said base amount shall be adjusted to reflect the increase or decrease, if any, in the price index for "Steel Mill Products" (SIC-1013),

as published in "Wholesale Prices and Price Indices", above or below such index for the month of December 1980.

The indices referred to above are presently published by the Bureau of Labor Statistics of the United States Department of Labor. If said indices, as the same are now computed and published, should be discontinued, or enlarged upon, or changed, the adjustment shall be calculated on the equivalent of the present indices, and for the purpose of determining and calculating the equivalent of the present indices, use shall be made of the successor index or indices and the formulas announced or published by the Bureau of Labor Statistics of the United States Department of Labor, and its successors, as being proper for conversion of any such successor index to the equivalent of the present index.

(N) The costs of any capital addition designed and/or constructed under the supervision of CP&L as project manager shall include all properly allocable direct and indirect costs thereof.

(O) CP&L makes no warranty whatsoever that any capital addition or change to any part of the Joint Facilities will meet any regulatory requirement or will cure any deficiency with respect to safety, economy, efficiency, environmental soundness, or reliability for which it is deemed to be required or accomplish any other intended purpose.

(P) When CP&L begins to consider construction of a capital addition at any Joint Facility having an estimated cost

exceeding $20,000, it shall advise Power Agency of such consideration and the estimated cost of such proposed capital addition at the earliest stage which is reasonably feasible and, in any event, CP&L shall advise Power Agency as soon as a recommendation is made by an officer or management employee of CP&L, as set forth in Section 12.1(B)(3) of the Sales Agreement, to the Senior Management Committee of CP&L for the expenditure of funds for study or construction of a specific capital addition.

2.4 <u>Contract Submittal and Review</u>

(A) Pursuant to Section 7.4(B)(1) of the Sales Agreement, CP&L shall furnish to Power Agency at least sixty (60) days prior to the First Closing Date, for Power Agency's approval, copies of all contracts with third parties relating to the Construction, Initial Fueling and placing into Commercial Operation of the Joint Facilities listed on Exhibit SA-IX-1 of the Sales Agreement, including all changes or amendments thereto as of the First Closing Date.

(B) Following the First Closing Date, CP&L shall submit to Power Agency for Power Agency's review all contracts with third parties executed after the First Closing Date relating to the operation and maintenance of, capital additions to, and provision of Fuel Management Services for, the Joint Facilities, including all changes or amendments to existing third-party contracts.

CP&L shall submit each such contract, change or amendment for Power Agency's review as soon as practical following execution of such contract, change or amendment, but in no event later than thirty (30) days after CP&L receives the original or a copy of such executed contract, change or amendment.

(C) CP&L shall take any and all reasonable steps to enforce compliance with each such contract and shall actively pursue any and all contractual or other remedies which might be available in the event of noncompliance with any such contract. CP&L's actions in enforcing compliance with such contracts and CP&L's pursuit of remedies in the event of noncompliance with any such contract shall be in accordance with CP&L Operating Practice.

ARTICLE 3

FUEL MATERIAL AND FUEL SERVICES

3.1 General

(A) Under this Agreement, the Owners shall pay the costs of all Nuclear Fuel Material, Nuclear Fuel Services, Fossil Fuel Material, Fossil Fuel Services and other costs allocable to the fueling of the Joint Units which have not been paid for under the Sales Agreement.

(B) The price of Nuclear Fuel Material required for Reload Fuel for the Brunswick Units and the Harris Units shall be CP&L's average cost for such material as further set forth in Section 7.5.

(C) CP&L shall provide all Fuel Management Services, including but not limited to, arranging for the acquisition, by purchase, lease, or otherwise, of all (1) Nuclear Fuel Material for the Brunswick and Harris Plants, (2) Fossil Fuel Material, (3) Nuclear Fuel Services and Fossil Fuel Services required for the sustained operation of the Joint Facilities, and (4) replacement Nuclear Fuel Material, Nuclear Fuel Services and/or Reload Fuel required pursuant to Section 3.2(C).

CP&L shall use reasonable efforts to obtain such Nuclear Fuel Material and Fossil Fuel Material and provide such Nuclear Fuel Services and Fossil Fuel Services, but CP&L does not warrant or assure (1) the availability of such Fuel Materials or Fuel

Services, or (2) the availability of such Fuel Materials or Fuel Services at reasonable prices or on an established schedule.

(D) CP&L shall act as the administrator of the contracts and other technical services provided throughout the nuclear fuel cycle and in connection with the procurement and use of fossil fuels.

(E) Except as is otherwise provided in Section 7.5, CP&L shall use its usual accounting, control and approval procedures with respect to all expenditures made for Nuclear Fuel Material, Fossil Fuel Material, Nuclear Fuel Services, Fossil Fuel Services and Fuel Management Services hereunder.

(F) Notwithstanding the other provisions of this Article 3 or of Article 17, CP&L shall have the right to subcontract for any or all of the fuel procurement functions described herein; but, as between Power Agency and CP&L, such subcontracts shall not operate to relieve CP&L of any responsibility it has under this Article 3.

(G) In consideration of Section 3.1(B) and Section 7.5, CP&L shall have the right to undertake and pursue exploration, mining and other ventures, either alone or with others, for the purpose of attempting to obtain Nuclear Fuel Material in accordance with Section 3.1(C) and, in connection therewith, Power Agency shall have the obligation to advance funds in accordance with Section 7.6 for all such ventures, including those in existence on the First Closing Date. If it so chooses, Power

Agency may participate in exploration, mining or other ventures undertaken by CP&L, either alone or with others, for the purpose of attempting to obtain Fossil Fuel Material, after the First Closing Date. In the event Power Agency participates in ventures to procure Fossil Fuel Material, it shall have the obligation to advance funds in accordance with Section 7.7.

CP&L shall have the right to include any funds expended by CP&L on behalf of CP&L and Power Agency for ventures to procure Nuclear Fuel Material and those ventures to procure Fossil Fuel Material in which Power Agency has chosen to participate in the costs of Nuclear Fuel Material and Fossil Fuel Material, respectively, pursuant to Article 7; and Power Agency shall have the obligation to pay the cost of Nuclear Fuel Material for the Brunswick and Harris Plants acquired for the Uranium Account as described in and determined in accordance with Sections 7.3 and 7.5, and to pay the cost of Fossil Fuel Material as described in Section 7.4 including, without limitation, its share of the costs of such venture(s) pursuant to Article 9. Power Agency agrees that its right to dispute any of the foregoing by arbitration under Article 16, by legal action or otherwise, shall be limited (1) to events of fraud, willful misconduct or gross negligence by CP&L in connection therewith and (2) to the determination of the costs (but not whether such costs should have been incurred) and the proper allocation of Power Agency's share of such costs.

(H) In the event any supplier of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel for the Brunswick Plant or the Harris Plant, or Fossil Fuel Material or Fossil Fuel Services in connection with Roxboro Unit No. 4 or the Mayo Units breaches or otherwise inadequately performs a contract with CP&L or Power Agency, Power Agency agrees that its right to seek redress in any form from CP&L with respect to such breach or inadequate performance by arbitration under Article 16, by legal action or otherwise, shall be limited to events of fraud, willful misconduct or gross negligence by CP&L in connection with such contract.

(I) CP&L may take all steps and actions which it deems necessary or appropriate to carry out its rights and obligations pursuant to this Article 3.

(J) CP&L shall prepare a nuclear fuel plan which shall initially be provided to Power Agency not later than thirty (30) days prior to the First Closing Date and which shall be updated on December 1 of each year following the First Closing Date. This plan shall include, for a period of no less than five (5) calendar years and for a longer period up to ten (10) years, if such a plan is available, following the year in which the plan is submitted to Power Agency, the following information:

(1) The anticipated fueling schedule for each nuclear generating facility on the Combined System;

(2) The anticipated schedule and source, including existing and proposed contractual arrangements, for the supply of Nuclear Fuel Material and major Nuclear Fuel Services (conversion, enrichment and fabrication) for the Combined System, except Nuclear Fuel Services relating to nuclear fuel designated for use in units other than the Brunswick and Harris Units; and

(3) An estimate of the cost associated with the supply of the Nuclear Fuel Material and major Nuclear Fuel Services described in Section 3.1(J)(2).

In supplying such information, CP&L shall not be required to disclose information in violation of any of its contracts.

The nuclear fuel plan shall be provided for planning purposes only, and shall not govern for the purpose of determination of the cost or payment schedule required under this Agreement except for use in computation of Power Agency's contribution to the Uranium Account in accordance with Exhibit OFA-III.

The nuclear fuel plan and all information contained therein, including, without limitation, existing and proposed contractual arrangements, the terms and conditions thereof (including prices) set forth in the nuclear fuel plan, and any information

derived solely therefrom, are confidential and proprietary information of CP&L, and Power Agency shall not disclose any such information without obtaining the advance written consent of CP&L, except where such disclosure is required by law or regulation or in connection with assertion of a claim or defense in arbitration, judicial or administrative proceedings involving Power Agency, in which event Power Agency shall advise CP&L in advance and cooperate to the maximum extent practicable to minimize the disclosure of such information.

3.2 Designation, Title, Risk of Loss, Exchange and Repurchase

(A) Designation and Title -- All Nuclear Fuel Material (whether or not to be enriched) shall be designated for use at a specific nuclear generating unit on the Combined System at the time the portion of such Nuclear Fuel Material to be enriched arrives at an enrichment facility. Legal title, as between CP&L and the Owners, to Nuclear Fuel Material for the Brunswick Plant and the Harris Plant shall pass to the Owners at the time such Nuclear Fuel Material is designated for use at a specific Brunswick or Harris Unit. In the case of leased fuel, obligations under the lease as between CP&L and the Owners concerning such leased fuel used as Nuclear Fuel Material for the Brunswick and Harris Plants shall pass to the Owners at the time when leased fuel used as Nuclear Fuel Material is designated for a specific Brunswick or Harris Unit. As between CP&L and the Owners, title to nuclear fuel waste material, other nuclear waste material, or recovered

product shall be vested in the Owners of the Nuclear Fuel Material producing such nuclear fuel waste material in proportion to their respective ownership interests in such Nuclear Fuel Material. Legal title, as between CP&L and the Owners, to Fossil Fuel Material for the Mayo Plant and Roxboro Unit No. 4 shall pass to the Owners at such time as CP&L acquires title to such Fossil Fuel Material.

(B) Risk of Loss -- Any loss or damage to Nuclear Fuel Material occurring prior to its designation for use at a specific Brunswick or Harris Unit shall be reflected in the cost of Nuclear Fuel Material pursuant to Section 7.5. After the Nuclear Fuel Material is designated for use at a specific Brunswick or Harris Unit, any loss or damage to the Nuclear Fuel Material, Reload Fuel or Nuclear Fuel Services associated with such fuel shall be charged to the Brunswick or Harris Unit for which the fuel is designated.

(C) Exchange and Repurchase -- In the event that any Nuclear Fuel Material, Nuclear Fuel Services and/or Reload Fuel designated for the account of a specific Brunswick or Harris Unit and paid for by the Owners is temporarily not required, CP&L may use such Nuclear Fuel Material, Nuclear Fuel Services and/or Reload Fuel at other nuclear generating units on the Combined System, provided CP&L replaces the same. In the event any Nuclear Fuel Material, Nuclear Fuel Services and/or Reload Fuel designated to the account of a specific Brunswick or Harris Unit and paid for by the Owners will never be used for the Unit to

which it has been designated, CP&L shall have the right to repurchase any such Nuclear Fuel Material, Nuclear Fuel Service or Reload Fuel at the cost to Power Agency, plus simple interest calculated at the Compensatory Interest Rate to the date of such repurchase.

(D) <u>Sale to Other Parties</u> -- In the event any Nuclear Fuel Material from the Uranium Account is sold, leased (except when CP&L retains title under a trust or other financing arrangement) or otherwise disposed of, CP&L and Power Agency shall share in any and all profits and losses associated with such transaction as provided in Section 7.5(A)(4)(d).

3.3 <u>Responsibility for Spent Fuel</u>

(A) For spent fuel batches for which all fuel assemblies have been finally discharged from a reactor and which are located in the fuel pools of units on the Combined System as of the First Closing Date, Power Agency shall assume responsibility for a portion of any back-end costs or liabilities and shall be entitled to a portion of any salvage value credits associated therewith. Such portion shall be equal to the product of eight and one-quarter percent (8.25%) times the CP&L Customer Ratio. Within ninety (90) days after the First Closing Date, CP&L shall furnish Power Agency with a statement specifically identifying each fuel assembly in such spent fuel batch and also showing, as of the First Closing Date, payments associated with back-end costs or liabilities for such fuel made by the Participants,

as full requirements customers, to CP&L prior to the First Closing Date. At such time as back-end costs, liabilities or salvage value credits are realized for such fuel, such payments, less any amounts of such payments which are refunded to the Participants pursuant to an order of FERC, shall be credited to Power Agency as an offset against Power Agency's share of actual back-end costs or liabilities or added to Power Agency's salvage value credits, as appropriate.

(B) For all fuel batches finally discharged from the reactors at the Brunswick Plant and the Harris Plant subsequent to the First Clos. Power Agency shall assume responsibility for a portion of any back-end costs or liabilities and shall be entitled to a portion of any salvage value credits in proportion to its ownership interest in such batches at the time such batches are finally discharged from the reactor.

3.4 Recycle Uranium

If spent fuel from a Brunswick Unit or a Harris Unit is reprocessed and recycled, recycle uranium and the costs associated therewith shall be credited to the Uranium Account in a manner which appropriately reflects the respective investments, rights and responsibilities of the Owners in such recycle uranium pursuant to this Agreement and the Related Agreements.

ARTICLE 4

SPENT FUEL STORAGE CAPABILITY

4.1 Use by CP&L

In consideration in part of the Power Coordination Agreement, CP&L shall have the exclusive right to use the spent fuel storage capability at the Brunswick Plant and the spent fuel storage capability at the Harris Plant for other than Brunswick or Harris fuel, respectively, but only for nuclear fuel from the Combined System. The monthly charge therefor shall be calculated in accordance with Exhibit OFA-VIII. Such charge shall be payable when CP&L first uses such storage for nuclear fuel from the Combined System (or, if fuel from the Combined System is then being stored at the Brunswick Plant, effective as of the First Closing Date), other than Brunswick fuel at the Brunswick Plant or Harris fuel at the Harris Plant, and shall be payable only so long as, and to the extent that, CP&L uses such storage for that purpose.

In the event CP&L's use of such spent fuel storage capabilities creates a situation where Brunswick or Harris fuel could not use the fuel storage capabilities at the Brunswick Plant or the Harris Plant, respectively, CP&L shall, subject to appropriate regulatory approvals, either (1) remove its fuel assemblies stored at the Brunswick Plant or the Harris Plant, in order to provide storage at the Brunswick Plant locations for Brunswick fuel assemblies and at the Harris Plant locations for Harris fuel assemblies; or (2) provide comparable storage and safeguarding

for Brunswick and Harris spent fuel at another facility provided by CP&L, at the above monthly charge payable to CP&L, up to the capacity CP&L uses at the Brunswick Plant for other than Brunswick fuel assemblies and up to the capacity CP&L uses at the Harris Plant for other than Harris fuel assemblies. In this latter event, CP&L shall pay the cost of transporting the Brunswick or Harris fuel assemblies to any interim location, and the Owners shall pay for such transport from the interim location to any location then understood to be the final destination of assemblies so displaced.

4.2 Indemnification by CP&L

Except as provided in Section 3.3, CP&L hereby agrees to indemnify and hold harmless Power Agency, and the individual Participants, their agents, servants and employees, in using the spent fuel storage capabilities at the Brunswick and Harris Plants for other than jointly-owned Brunswick fuel or other than Harris fuel, respectively, and, where caused by such use in transporting Brunswick or Harris spent fuel to another location, and storage at such location, against any and all responsibility or liability for any and all damage or injury of any nature whatsoever (including death resulting therefrom) to all persons, whether employees of CP&L, Power Agency, Participants, or otherwise, and to all property, caused by, resulting from, arising out of, or occurring in connection with, such use of the spent fuel storage capability at the Brunswick and Harris Plants by CP&L,

whether such claim may be based upon contract, tort or upon any alleged breach of any duty or obligation. Except as otherwise specifically provided in Section 4.3, such indemnification shall hold harmless Power Agency, and the Participants, their agents, servants and employees against any and all liability and any and all losses, damages, injuries, costs and expenses, including expenses incurred by Power Agency, and the individual Participants, their agents, servants and employees, in connection with investigating any claim or defending any action and including reasonable attorneys' fees incurred or suffered by Power Agency, and the individual Participants, their agents, servants and employees, by reason of the assertion of any such claim against Power Agency, and the individual Participants, their agents, servants or employees.

4.3 Assumption of Defense by CP&L

CP&L may assume on behalf of Power Agency, the individual Participants, their agents, servants and employees, at its option and after written notification to Power Agency, the defense of any action at law or in equity which may be brought against Power Agency, and the individual Participants, their agents, servants or employees, upon any claim described in Section 4.2. CP&L, regardless of whether it assumes the defense of any action of Power Agency or defends such action, shall pay on behalf of Power Agency, and the individual Participants, their agents, servants

or employees, all costs associated with the defense of the claim and the amount of any judgment that may be entered against Power Agency, and the individual Participants, their agents, servants or employees, in any such action, with the exception of the following costs:

(1) The expense of investigating any claim prior to the time that notice is given to CP&L that said claim is covered by this indemnification;

(2) Compensation for time spent by employees of Power Agency in defending any action; and

(3) Attorneys' fees incurred by Power Agency after CP&L has assumed the defense of an action as provided in this Section 4.3.

4.4 Continuation of Use After Termination of Agreement

In the event this Agreement is terminated for any reason, CP&L shall retain the rights and liabilities for use of the spent fuel storage capabilities at the Brunswick Plant and the Harris Plant in accordance with this Article 4.

ARTICLE 5

FOSSIL FUEL WASTE DISPOSAL

The operation and maintenance and capital costs of fossil fuel waste disposal shall be treated in accordance with the provisions of Article 7 with respect to Roxboro Unit No. 4 and the Mayo Plant and, where applicable, to the Roxboro Common Support Facilities in accordance with the provisions of Sections 6.2, 6.3, 7.1 and 7.2. Revenues generated from the disposal of fossil fuel waste shall be credited to the fuel account or to the appropriate operation and maintenance expense account in accordance with Section 7.1. The allocation of such revenues to particular Units shall be performed in accordance with Section 7.10.

ARTICLE 6

RIGHT OF USE OF THE ROXBORO COMMON SUPPORT FACILITIES

6.1 Right of Use by Power Agency

In consideration of Power Agency's payment of the purchase price of Roxboro Unit No. 4 and in order to facilitate Power Agency's use of its ownership interest in Roxboro Unit No. 4, CP&L grants to Power Agency the right to use all support facilities located at the Roxboro Plant needed in the operation of Roxboro Unit No. 4 and not directly associated solely with Roxboro Unit No. 4 (the "Roxboro Common Support Facilities"). Power Agency's right to use the Roxboro Common Support Facilities shall commence on the First Closing Date, as set forth in Section 2.1 of the Sales Agreement, and shall continue until the date of retirement of Roxboro Unit No. 4.

6.2 Payment of Costs of Operation and Maintenance

(A) During the term of Power Agency's right to use the Roxboro Common Support Facilities, Power Agency shall advance to CP&L on a monthly basis its proportionate share of the costs of operation and maintenance of such facilities. Such advances shall be paid on the same basis as, and included as a part of, the payments provided for in Section 9.1. The costs of operation and maintenance of the Roxboro Common Support Facilities shall be allocated to Roxboro Unit No. 4 on the basis of the allocation methods set forth in Exhibit OFA-IX. At any time,

Power Agency's share of the operation and maintenance costs properly allocable to Roxboro Unit No. 4 shall be based upon Power Agency's Ownership Interest (as defined in Section 1.48 of the Sales Agreement) in Roxboro Unit No. 4. The method by which Power Agency's share of the costs of operation and maintenance of the Roxboro Common Support Facilities shall be determined is set forth in Exhibit OFA-IX.

(B) CP&L shall furnish to Power Agency estimates of the monthly payments due from Power Agency for Power Agency's share of the costs of operation and maintenance of the Roxboro Common Support Facilities. Such estimates shall be included as a part of, and prepared on the same basis as, the estimates to be provided by CP&L pursuant to Section 9.1.

6.3 Advances for Capital Additions

(A) CP&L and Power Agency acknowledge that capital additions to the Roxboro Common Support Facilities will be necessary from time to time. Power Agency shall pay its proportionate share of expenditures for capital additions to the Roxboro Common Support Facilities which occur after December 31, 1979. Each Closing Payment provided for in Section 6.1(B) of the Sales Agreement shall include Power Agency's share of such expenditures made between December 31, 1979 and each Closing Date, based on the ownership interest being acquired by Power Agency on such Closing Date. After the First Closing Date, Power Agency shall advance to CP&L on a monthly basis its proportionate share of

such expenditures not included in a Closing Payment, and such advances shall be paid on the same basis as, and included as a part of, the payments provided for in Section 9.3. The costs of such capital additions to the Roxboro Common Support Facilities shall be allocated to Roxboro Unit No. 4 on the basis of the allocation methods set forth in Exhibit OFA-VII. Power Agency's share of the costs properly allocable to Roxboro Unit No. 4 shall be based upon Power Agency's Ownership Interest in Roxboro Unit No. 4. The method by which Power Agency's share of the costs of such capital additions to the Roxboro Common Support Facilities shall be determined is set forth in Exhibit OFA-VII.

(B) CP&L shall furnish to Power Agency estimates of the monthly payments due from Power Agency for Power Agency's share of the costs of capital additions to the Roxboro Common Support Facilities. Such estimates shall be included as a part of, and prepared on the same basis as, the estimates to be provided by CP&L pursuant to Section 9.3.

(C) Power Agency agrees that its right to dispute its obligations under this Section 6.3 shall be limited to (1) events of fraud, willful misconduct or gross negligence by CP&L in connection with such capital additions and (2) the determination of the costs (but not whether such costs should have been incurred) and the proper allocation of Power Agency's share of such costs.

6.4 Salvage, Sale, Transfer or Disposition of Capital Additions to the Roxboro Common Support Facilities

CP&L shall have the right to salvage, sell, transfer or dispose of any capital addition to the Roxboro Common Support Facilities; provided, however, that Power Agency shall be credited with its proportionate share of the value of or proceeds received from the salvage, sale, transfer or disposition of any capital addition as to which Power Agency has made a payment pursuant to Section 6.3.

ARTICLE 7

COSTS

7.1 Costs and Accounting

Except for those costs to be borne specifically by Power Agency pursuant to any provision of this Agreement, each Owner shall pay its proportionate share pursuant to this Article 7 of (a) all direct and indirect costs incurred in connection with fuel and with the operation, fueling, maintenance or shutdown of the Joint Facilities, and (b) all costs of capital additions thereto. Separate accounts for the Joint Facilities shall be maintained for operation and maintenance expenses, on the one hand, and capital additions, on the other. Such accounts shall be maintained in accordance with the FERC Uniform System of Accounts prescribed for Class A and Class B Public Utilities and Licensees, 18 C.F.R. Part 101, as it may be amended from time to time; provided, however, that if such accounting under the Uniform System is eliminated, then costs shall be determined thereafter by applying the same methods and procedures then used by CP&L. Allocation of costs shall be made in accordance with Exhibits OFA-IX-1, OFA-IX-2, OFA-IX-3, and OFA-IX-4 and OFA-IX-5 or, where no allocation is specified in this Agreement, in accordance with Section 7.10. There shall be no duplication of charges.

7.2 Cost of Operation and Maintenance and Capital Additions

Direct and indirect costs incurred in connection with operation, fueling (other than costs paid by the Owners pursuant Sections 7.3, 7.4, 7.5 and 7.9), maintenance or shutdown of the Joint Facilities, and costs of capital additions shall include, but not be limited to, the following expenses, obligations and liabilities:

(A) All direct expenses of labor and direct payroll overhead of personnel assigned to and/or working at, and properly chargeable to, the Joint Facilities (excluding costs described in Sections 7.2(B) through (G), 7.3, 7.4, 7.5, 7.6 and 7.7).

(B) Costs of all utilities, services, equipment, chemicals, spare parts, tools, goods, materials and supplies of every nature used at the Joint Facilities charged directly to the expense of operation and maintenance of, or capital additions to, the Joint Facilities.

(C) All indirect labor costs and indirect payroll overheads which are properly allocable to the operation and maintenance of, and any capital addition to, the Joint Facilities.

(D) Every other cost which is designated in this Agreement as a cost of operation and maintenance or as a cost of capital additions; the costs associated with procuring, designing, managing, analyzing and operating Reload Fuel and

Fossil Fuel Material not otherwise allocated to the Joint Facilities pursuant to Sections 7.3, 7.4, 7.5 and 7.9; other costs related to operation, fueling or maintenance or to capital additions, including the cost of insurance, regulatory fees and taxes other than payroll related taxes, and other payments to third parties except for direct labor and indirect costs of CP&L's subsidiaries allocable to the Joint Facilities (which costs are included pursuant to Section 7.2(A) or 7.2(C)).

(E) The properly allocable portion of CP&L's administrative and general expenses allocated to the Joint Facilities which shall be allocated in accordance with Exhibit OFA-IX-2.

(F) The properly allocable portion of the fixed cost associated with CP&L's investment in General Plant allocated to the Joint Facilities which shall be allocated in accordance with Exhibit OFA-IX-5.

(G) All costs of accounting and billing under this Agreement (which shall be costs of operation and maintenance); except that Power Agency shall pay all costs of developing new accounting systems or modifying existing accounting systems required for accounting and billing under this Agreement. If CP&L sells ownership interests in any of its generating facilities to an entity other than Power Agency, and if such development of new accounting systems or such modifications to existing accounting systems are used in accounting and billing for such other entity, CP&L shall pay Power Agency a portion of the

development or modification costs previously paid by Power Agency for such development or modification. Such portion shall be equal to the proportion of such other owner's ownership interest in generating facilities jointly owned with CP&L (in megawatts) to the total ownership interests in generating facilities jointly owned with CP&L (in megawatts) of all such other owners (including Power Agency). Such payments shall be made upon the Closing Date for the acquisition of such ownership interest by such other owner. Power Agency shall also pay all costs incurred by CP&L arising out of special requests by Power Agency associated with billing and accounting under this Agreement.

7.3 Cost of Nuclear Fuel Material, Nuclear Fuel Services and Reload Fuel

The Owners shall pay all costs of all Nuclear Fuel Material for the Brunswick and Harris Plants and Nuclear Fuel Services, including all costs arising from contracts relating to these materials and services, for Reload Fuel for the Brunswick and Harris Units.

(A) At Closings -- In connection with the provision of any Reload Fuel for the Brunswick and Harris Units, Power Agency shall pay, upon each Closing Date, its portion of the costs associated with Reload Fuel for the Brunswick Plant and the Harris Plant calculated in accordance with the procedures set forth in Section 4.3 of the Sales Agreement. Such costs shall include,

but not be limited to, the cost of Nuclear Fuel Material (including costs of advances incurred or determined pursuant to Sections 7.5 and 7.6), Nuclear Fuel Services in connection with Reload Fuel and all costs incurred by CP&L of the type described in Section 7.3(B)(3) through (6). In connection with each closing, the Closing Payments for Reload Fuel shall include Power Agency's portion not previously paid under the Sales Agreement of all such actual costs for Reload Fuel incurred during the period ending sixty (60) days prior to each Closing Date and an estimate of costs incurred in the period beginning sixty (60) days prior to each Closing Date and ending on the last day of the month following the month in which each Closing Date occurs. The Closing Payments shall also include an amount to be paid by Power Agency, calculated in accordance with Exhibits SA-V-4 and SA-V-6 of the Sales Agreement.

(B) <u>After Closings</u> -- Other than to the extent covered by Sections 7.3(A) and 9.2(A), the Owners shall pay, in accordance with Section 9.2(B) through (H), their properly allocable share of all Brunswick-related and Harris-related Reload Fuel costs and all other fuel costs properly allocable to these Units which have not been paid for under the Sales Agreement. These costs shall include the following:

(1) Nuclear Fuel Material;

(2) Nuclear Fuel Services;

(3) Legal Fees and Expenses: All legal fees and expenses (including consultants' fees) incurred by CP&L related to the purchase of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel for the Brunswick Units and the Harris Units, as well as any legal fees and expenses (including consultants' fees) arising from disputes with third parties pertaining thereto. The fees and expenses included in this subsection relate solely to services provided by persons other than employees of CP&L, which employee costs are covered in Section 7.3(B)(8);

(4) Taxes and Insurance: All taxes (other than CP&L's income taxes), including all property taxes or other taxes assessed against Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel for the Brunswick Units and the Harris Units and a pro rata share of any such taxes levied upon CP&L's supply of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel of which fuel or services for the Brunswick or Harris Units are a part; and all insurance costs incurred by CP&L in the course of procuring Nuclear Fuel Material and Nuclear Fuel Services in connection with Reload Fuel for the Brunswick and Harris Units and for a pro rata share of any such insurance costs incurred by CP&L on its supply of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel of which fuel or services for the Brunswick or Harris Units are a part;

(5) Research and Development, Design: All research, development and/or design expenses incurred by CP&L which are appropriately allocable to the supply of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel for the Brunswick Units and the Harris Units;

(6) Consultants: All consultant fees and expenses incurred by CP&L which are appropriately allocable to the supply of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel for the Brunswick Units and the Harris Units;

(7) Penalties and Termination Costs: All penalty costs or termination costs incurred by CP&L which are appropriately allocable to the supply of Nuclear Fuel Material or Nuclear Fuel Services in connection with Reload Fuel for the Brunswick Units and the Harris Units;

(8) Other Costs: All other costs incurred by CP&L which are appropriately allocable to Nuclear Fuel Material or Nuclear Fuel Services, in connection with Reload Fuel for the Brunswick and Harris Units, including, but not limited to, all uninsured losses or liabilities incurred with respect to such Material or Services.

7.4 Cost of Fossil Fuel Material and Fossil Fuel Services

The Owners shall pay all costs of all Fossil Fuel Material and Fossil Fuel Services, including all costs arising from contracts relating to these materials and services, for Roxboro Unit No. 4 and the Mayo Units.

(A) <u>At Closings</u> -- Power Agency shall pay, upon each Closing Date, its portion of the costs of Fossil Fuel Material and Fossil Fuel Services for Roxboro Unit No. 4 and the Mayo Units, as specified in Exhibit SA-V of the Sales Agreement.

(B) <u>After Closings</u> -- Other than to the extent covered by Sections 7.4(A) and 9.2(A), the Owners shall pay, in accordance with Section 9.2(B) through (H), their properly allocable share of all costs of fuel for Roxboro Unit No. 4 and the Mayo Units and all other fuel costs properly allocable to these Units which have not been paid for under the Sales Agreement. These costs shall include the following:

(1) Fossil Fuel Material:

(a) The cost of coal and all associated transportation costs including, but not limited to, demurrage and other fees incurred in the delivery of such coal; provided, however, if such coal is produced from a venture in existence at the First Closing Date in which CP&L has an interest or is otherwise participating but in which Power Agency does not have an interest or is not otherwise participating, such costs shall be determined in a manner consistent with the manner that such costs are treated for rate making purposes by the North Carolina Utilities Commission and if coal is produced from such a venture which is

begun after the First Closing Date, such costs shall include all direct and indirect costs of CP&L associated with such venture, including a fair return on CP&L's capital invested in such venture.

If Power Agency proposes to enter into a venture to produce coal in which CP&L does not participate, CP&L agrees to negotiate with Power Agency regarding a coal purchase contract by CP&L for Power Agency's coal produced from such venture, but CP&L shall not be required hereby to enter into such contract if satisfactory terms cannot be agreed upon or if CP&L concludes that an alternate source of coal is preferable;

(b) The cost of oil for start-up, flame stabilization and other miscellaneous purposes for Roxboro Unit No. 4 shall be determined by applying the average unit price for all such oil delivered to the Roxboro Plant in the subject month to the quantity of oil burned at Roxboro Unit No. 4 during that month;

(c) The coal pile inventory at Roxboro Unit No. 4 and the Mayo Plant shall be adjusted periodically to reconcile coal tonnage determined by aerial

survey methods with tonnage carried in the accounts of CP&L to take account of differences which arise due to scale tolerances. The adjustments will be made in accordance with standard procedures used by CP&L at all of its coal burning plants;

(2) Fossil Fuel Services;

(3) Legal Fees and Expenses: All legal fees and expenses (including consultants' fees) incurred by CP&L related to the purchase of Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units, as well as any legal fees and expenses (including consultants' fees) arising from disputes with third parties pertaining thereto. The fees and expenses included in this subsection relate solely to services provided by persons other than employees of CP&L, which employee costs are covered in Section 7.4(B)(8);

(4) Taxes and Insurance: All taxes (other than CP&L's income taxes), including all property taxes or other taxes assessed against Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units and a pro rata share of any such taxes levied upon CP&L's supply of Fossil Fuel Material or Fossil Fuel

Services in connection with fossil fuel of which fuel or services for Roxboro Unit No. 4 or the Mayo Units are a part; and all insurance costs incurred by CP&L in the course of procuring Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units or for a pro rata share of any such insurance costs incurred by CP&L on its supply of Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel of which fuel or services for Roxboro Unit No. 4 or the Mayo Units are a part;

(5) Research and Development, Design: All research, development and/or design expenses incurred by CP&L which are appropriately allocable to the supply of Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units;

(6) Consultants: All consultant fees and expenses incurred by CP&L which are appropriately allocable to the supply of Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units;

(7) Penalties and Termination Costs: All penalty costs or termination costs incurred by CP&L which are appropriately allocable to the supply of

Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units;

(8) Other Costs: All other costs incurred by CP&L which are appropriately allocable to Fossil Fuel Material or Fossil Fuel Services in connection with fossil fuel for Roxboro Unit No. 4 and the Mayo Units, including, but not limited to, all uninsured losses or liabilities incurred with respect to such Material or Services.

7.5 Determination of Cost of Nuclear Fuel Material

(A)(1) An account to be known as the Uranium Account shall be established commencing on the First Closing Date for all unenriched uranium material to which CP&L holds title (or has an interest in or has the right to use by lease or otherwise), regardless of chemical form and which has not yet been designated to a specific unit in accordance with Section 3.2(A). The Uranium Account shall contain a record of (a) quantities of uranium material, maintained separately for U_3O_8 and UF_6, and (b) all costs associated with such quantities, including but not limited to the cost of U_3O_8, conversion, transportation, weighing and sampling, allowance for funds used during construction (AFUDC) to the extent provided for in Section 7.5(A)(2) and all uninsured losses or liabilities, but excluding fees payable under this Agreement pursuant to Section 7.11.

(2) The Uranium Account average unit uranium cost for U_3O_8 and for UF_6 shall be calculated in accordance with Exhibit OFA-IV. AFUDC included on CP&L's books as of the First Closing Date for uranium material to be included in the Uranium Account as of such date shall be included in the Uranium Account pursuant to Section 7.5(A)(1). In addition, a proportionate part, reflecting Power Agency advances pursuant to Section 7.5(A)(3), of any AFUDC accrued on the books of CP&L for uranium material in the Uranium Account between the First Closing Date and any Subsequent Closing shall be included in the calculation of Power Agency's addition to its contribution to the Uranium Account to be paid on such Subsequent Closing. Such AFUDC accrued on the books of CP&L shall be adjusted, for the purposes of the foregoing calculation, to eliminate any reduction thereto associated with previous Power Agency contributions to the Uranium Account.

(3) Power Agency shall make an initial payment for costs reflected in the Uranium Account, and the amount thus paid shall be periodically adjusted, as described in Exhibit OFA-III. In addition, Power Agency shall advance funds toward the costs reflected in the Uranium Account for each purchase of uranium material or associated services assigned to the Uranium Account, as described in Exhibit OFA-III. Such payments shall be subject to the provisions of Section 7.6.

(4) The following provisions shall govern withdrawals from the Uranium Account:

(a) When uranium material from the Uranium Account, UF_6 sub-account, is designated for a specific unit, the dollar amount by which the Uranium Account, UF_6 sub-account, is reduced ("Withdrawal Value") shall be an amount equal to the product of the quantity of uranium material, in pounds, as UF_6, designated, multiplied by the Average Unit Uranium Cost for UF_6 in effect at the time of such designation.

(b) When uranium material from the Uranium Account, UF_6 sub-account, is designated for a specific Harris or Brunswick Unit, Power Agency shall pay CP&L an amount in dollars equal to:

$$[(X - P) \times (\text{Withdrawal Value})] + Z$$

Where X is Power Agency's undivided ownership interest (fraction), at the time of designation, in the Unit for which the designation is made, P is Power Agency's portion of the Uranium Account, UF_6 sub-account, expressed as a decimal fraction, as calculated in Exhibit OFA-III in effect at the time of designation, and Z is the actual net effect on CP&L's federal and state income taxes (including tax on capital gains) attributable to AFUDC included in the Uranium Account to the extent provided for in Section 7.5(A)(2) associated with the sale to Power Agency of such uranium material, as determined in accordance with the principles set forth in Exhibit SA-V-6 of the Sales Agreement, and Withdrawal Value is as defined in Section 7.5(A)(4)(a) above. (If such calculated amount is a negative number of dollars, CP&L shall pay Power Agency the absolute value in dollars of such amount.)

(c) When uranium material from the Uranium Account, UF_6 sub-account, is designated for a specific CP&L unit other than a Harris or Brunswick Unit, CP&L shall pay Power Agency an amount in dollars equal to:

(P) x (Withdrawal Value)

Where P and Withdrawal Value are as defined in Section 7.5(A)(4)(a) and (b).

(d) When Nuclear Fuel Material from the Uranium Account is sold, leased (except when CP&L retains title under a trust or other financing arrangement) or otherwise disposed of, the Withdrawal Value as defined in Section 7.5(A)(4)(a) shall be deducted from the Uranium Account and the owners shall share in the revenues from the sale, or other value received, in proportion to the ratios determined pursuant to Section 7.8(B) as of the date of such transaction. Any payments due Power Agency under this Section 7.5(A)(4)(d) shall be paid as soon as prac .cable but not later than thirty (30) days after receipt by CP&L of the proceeds of such sale.

(e) Payments specified in Section 7.5(A)(4)(b) and (c) shall be due within thirty (30) days of notification of a designation for a specific Unit. Notification shall be made within fifteen (15) days of the date on which such designation is made.

(f) If unenriched uranium material is procured by CP&L in a chemical form other than U_3O_8 or UF_6, an equivalent U_3O_8 amount in pounds and cost in dollars to be recorded

in the Uranium Account shall be calculated, with the conversion factors in the calculation adjusted to reflect accurately the different chemical form.

(B) If Nuclear Fuel Material other than uranium is procured for a Brunswick or Harris Unit pursuant to this Agreement, the principles of Section 7.5(A) shall apply. An account separate from the Uranium Account shall be maintained for any such other Nuclear Fuel Material so procured, and adjustments to any conversion factors shall be made so as to accurately reflect the chemical and fissionable composition of the material. For purposes of determining the average unit cost of such material pursuant to Section 7.5(A), the applicable time of determination shall be the first month in which the material is specifically identified or scheduled by CP&L for use at a Brunswick or Harris Unit or for use at another generating facility of CP&L.

(C) Uranium obtained by CP&L as a result of exploration, mining and other ventures undertaken by CP&L, alone or with others, shall be included in the Uranium Account. All costs of such uranium appropriate for inclusion in the Uranium Account shall be determined by CP&L and shall include such items as mine and/or mill depreciation, operating costs, taxes and land reclamation costs, whether actual or anticipated, and shall take into account at any point in time CP&L's best estimate of remaining ore reserve. If any uranium developed by a venture is sold

by or for CP&L to a party other than the parties to this Agreement, the net revenue from such sale shall be distributed between the parties in the same proportion as they contributed funds to the venture producing the uranium sold.

(D) To the extent that the price of uranium obtained from exploration, mining and other ventures, as determined in Section 7.5(C) above and recorded in the Uranium Account over the productive life of a given venture and charged to a Brunswick or Harris Unit, is insufficient to meet CP&L's obligations in closing down the venture, Power Agency shall promptly pay CP&L, upon receipt of the final accounting for the venture, the amount of such deficiency in the proportion that the amount of uranium from the venture utilized in Power Agency's ownership interest in such Unit bears to the total amount of uranium produced by the venture over its productive life. To the extent such price of uranium exceeds Power Agency's portion of CP&L's obligations in closing down the venture, CP&L shall promptly reimburse such excess to Power Agency in the proportion that the amount of uranium from the venture utilized in Power Agency's ownership interest in such Unit bears to the total amount of uranium produced by the venture over its productive life.

7.6 Advances for Procurement of Nuclear Fuel Material

(A) In accordance with Sections 7.3 and 7.5, Power Agency shall advance funds toward the costs of uranium material described in Section 7.5(A)(1)(b) acquired for the Uranium

Account. The amounts so advanced shall not be segregated but shall be credited by CP&L as Power Agency's contribution to the Uranium Account. The amounts advanced shall be used to offset the cost of uranium material determined pursuant to Section 7.5. Amounts advanced by Power Agency for the Uranium Account may not be used for any other purpose under this Agreement or the Related Agreements. The amounts so advanced shall be calculated in accordance with the provisions of Exhibit OFA-III. For purposes of comparing advances to costs pursuant to Section 9.2(G), CP&L shall be deemed to have incurred a fuel cost in the month in which CP&L pays for uranium material acquired for the Uranium Account. For a given acquisition of material, the cost attributable to Power Agency shall be determined in the same proportion used to calculate the advance. Any excess advance or deficiency in the advance shall be treated in accordance with Section 9.2(G).

(B) If Nuclear Fuel Material other than uranium is expected to be used at a Brunswick or Harris Unit pursuant to this Agreement, Power Agency shall provide advances pursuant to the procedures set forth in Section 7.6(A). A separate nuclear fuel account shall be maintained for each such other Nuclear Fuel Material, and Power Agency's contribution shall be determined as set forth in Section 7.5(A) and Exhibit OFA-III.

(C) Power Agency shall make an advance to CP&L in accordance with Section 9.2 each time CP&L anticipates an

expenditure for exploration, mining or other ventures undertaken by CP&L, alone or with others, for the purpose of attempting to obtain uranium material or for evaluation of potential projects. Of the total expenditure to be made by CP&L, the dollar amount to be advanced by Power Agency shall be calculated in the same proportion as the current fraction "P" as calculated in accordance with Exhibit OFA-III. Such funds advanced for mining, exploration, or other ventures shall be credited by CP&L to a Uranium Venture Account, established for Power Agency, which shall record the advances by venture. Amounts in Power Agency's Uranium Venture Account may not be used for any other purposes under this Agreement or the Related Agreements. If a given venture produces uranium, such advances shall be treated as Power Agency's contribution to the Uranium Account at such time and in such manner as to be consistent with the way in which CP&L treats its own outlays for such venture. If a given venture does not produce uranium, Power Agency's portion of such expenditures shall be debited to Power Agency's Uranium Venture Account. Further, Power Agency's portion of the expenditures for such venture shall be accounted for in such manner as to be consistent with the way in which CP&L treats its own outlay for such venture.

Payments required pursuant to this Section 7.6(C) shall be made pursuant to Sections 9.2(E) and 9.2(F).

7.7 Advances for Procurement of Fossil Fuel Material

(A) In consideration of the provisions of Section 3.1(C), when Power Agency exercises its participation rights pursuant to Section 3.1(G), Power Agency shall make an advance to CP&L for its proportionate share, as set out in Section 9.2, of all costs each time CP&L anticipates an expenditure for exploration, mining, or other ventures undertaken by CP&L, alone or with others, for the purpose of attempting to obtain Fossil Fuel Material or for evaluation of potential projects. In the event the expenditure is to be made in connection with a venture relating to the Mayo Plant, or either Unit thereof, or Roxboro Unit No. 4, the dollar amount to be advanced by Power Agency shall be calculated in the proportion which its ownership interest in such plant or Unit bears to the total expenditure. In the event the expenditure is to be made in connection with a venture related not to the Mayo Plant, or either Unit thereof, or Roxboro Unit No. 4 but to all of CP&L's fossil fuel units, the dollar amount to be advanced by Power Agency shall be calculated by applying to the total expenditure the ratio of Power Agency's undivided ownership share in fossil-fueled generating facilities on the Combined System expressed in MW to the total capacity of fossil-fueled generating facilities on the Combined System having comparable fossil fuel quality and annual quantities requirements expressed in MW. In the event an expenditure is to be made for a venture which is

not related to the Mayo Plant, or either Unit thereof, or Roxboro Unit No. 4, nor to all of CP&L's fossil fuel units, the dollar amount to be advanced by Power Agency shall be the subject of negotiations between the parties based on the facts as they exist at the time of such negotiations. Such payments shall be made pursuant to Sections 9.2(E) and 9.2(F).

(B) Such funds advanced for mining, exploration or other ventures may not be used for any other purposes under this Agreement or the Related Agreements. If a given venture produces Fossil Fuel Material, the amount of such advances shall be credited to the amounts due from Power Agency pursuant to Section 7.4 at such time and in such manner as to be consistent with the way in which CP&L treats its own outlays for such venture. Further, Power Agency's portion of the expenditures for such venture shall be accounted for in such manner as to be consistent with the way in which CP&L treats its own outlay for such venture. If a given venture is liquidated, Power Agency's portion of the profit or loss realized from the liquidation shall be credited or debited to the appropriate account of Power Agency by CP&L at such time and in such manner as to be consistent with the way in which CP&L treats its own outlays for such venture.

7.8 Costs to Each Owner

(A) Except as otherwise specifically provided in Section 7.2(G), costs payable by the Owners pursuant to Sections

7.1, 7.2, 7.3 and 7.4 shall be borne in the following proportions:

(1) <u>After the Final Closing Date</u>

(a) As to Power Agency's Costs -- (i) for the Brunswick Units = Commitment Ratio (as %) x 18.70%; (ii) for Roxboro Unit No. 4 = Commitment Ratio (as %) x 13.20%; (iii) for the Harris Units = Commitment Ratio (as %) x 16.50%; and (iv) for the Mayo Units = Commitment Ratio (as %) x 16.50%.

(b) As to CP&L's Costs -- (i) for the Brunswick Units = 100% - (Commitment Ratio (as %) x 18.70%); (ii) for Roxboro Unit No. 4 = 100% - (Commitment Ratio (as %) x 13.20%); (iii) for the Harris Units = 100% - (Commitment Ratio (as %) x 16.50%); and (iv) for the Mayo Units = 100% - (Commitment Ratio (as %) x 16.50%).

(2) <u>During the period between the First Closing Date and the Final Closing Date</u>

(a) As to Power Agency's Costs -- (i) for the Brunswick Units = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 18.70%; (ii) for Roxboro Unit No. 4 = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 13.20%; and (iii) for Mayo Unit No. 1 = Cumulative Closing Ratio

(at last preceding closing) (as %) x Commitment Ratio (as %) x 16.50%.

(b) As to CP&L's Costs -- (i) for the Brunswick Units = 100% - (Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 18.70%); (ii) for Roxboro Unit No. 4 = 100% - (Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 13.20%); and (iii) for Mayo Unit No. 1 = 100% - (Cumulative Closing Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 16.50%).

(B) Costs payable by the Owners for Nuclear Fuel Material and Nuclear Fuel Services designated for the Uranium Account or Uranium Venture Account pursuant to Sections 7.5 and 7.6 shall be borne in the following proportions:

(1) As to Power Agency's Costs -- that proportionate share represented by the fraction "P" as calculated in accordance with Exhibit OFA-III.

(2) As to CP&L's Costs -- that proportionate share represented by the fraction (1-"P"), where "P" is calculated in accordance with Exhibit OFA-III.

7.9 <u>Apportionment of Costs of Nuclear Fuel Back-End Services</u>

Responsibility for costs or credits arising from those elements of Nuclear Fuel Services described in Section

1.44(7) shall be apportioned between the Owners as provided for in Section 3.3.

7.10 Allocation of Certain Costs

Any costs or revenues properly allocable to the Joint Facilities shall be allocated by applying the same allocation methods and procedures, if any, being used by CP&L at the time in regard to the operation of its other generating facilities. If no such allocation methods and procedures are being used, or if such methods and procedures are inappropriate for use, then CP&L shall apply appropriate allocation methods and procedures. CP&L shall submit such allocation methods as are available, and an explanation of the bases for such allocation methods, to Power Agency at least ninety (90) days prior to the First Closing Date. At the First Closing Date and thereafter, CP&L shall submit the allocation methods, and an explanation of the bases therefor, on an annual basis and at other times as necessary prior to making a charge to the Joint Facilities based on such methods.

Nothing in this Agreement shall require CP&L to change, or otherwise affect, the corporate accounting practices and procedures used by it. All accounting practices, procedures and records necessary to obtain a proper allocation of all costs to the Joint Facilities under this Agreement may be maintained independently of CP&L's corporate records and may include allocations not otherwise used by CP&L.

7.11 Fees

(A) Power Agency shall pay the following fees to CP&L, in addition to all other costs described in this Agreement, in determining the payments made under Article 9. Such fees shall be included in Power Agency's costs in determining the payments made by CP&L under the Power Coordination Agreement for Purchased Capacity.

(1) For services rendered in operating and maintaining the Joint Facilities, Power Agency shall pay CP&L a fee of twelve and one-half percent (12.5%) of Power Agency's proportionate share of the costs described in Sections 7.2(A) and 7.2(C) as set out in Exhibit OFA-IX-6, and eight and one-half percent (8.5%) of Power Agency's proportionate share of third party labor and direct payroll overheads of personnel working at the Joint Facilities, which are properly allowable as set out in Exhibit OFA-IX-7.

(2) For services rendered by CP&L in connection with the provision of Fuel Material for the Joint Facilities and Fuel Services, in connection with Reload Fuel for the Brunswick and Harris Plants and with fossil fuel for Roxboro Unit No. 4 and the Mayo Units pursuant to Article 3, Power Agency shall pay CP&L an annual fee of $102,750 plus escalation as hereinafter set forth. Said $102,750, the base fee, shall be adjusted prospectively following the base month set forth below to reflect the increase, if any, in the Consumers Price Index for Urban

Wage Earners and Clerical Workers (CPI-W), all items (1967=100), as published by the Department of Labor, Bureau of Labor Statistics. The base month shall be November 16, 1978. If said CPI-W, as the same is now computed and published, should be discontinued, or enlarged upon, or changed, the adjustment shall be calculated on the equivalent of the CPI-W, and for the purpose of determining and calculating the equivalent of the present CPI-W, use shall be made of the successor index or indices and the formulas announced or published by the Department of Labor and its successors, as being proper for conversion of any successor index to the equivalent to the present CPI-W.

(3) For services rendered in dispatching Power Agency's Output from the Joint Facilities, Power Agency shall pay CP&L a fee of twelve and one-half percent (12.5%) of Power Agency's proportionate share of the costs of the production and transmission dispatching labor and direct payroll overheads related to such labor, indirect labor costs and indirect payroll overheads which are properly related to dispatching Output of the Combined System and which shall be allocated as set out in Exhibit OFA-IX-6.

(4) For services rendered in connection with the construction of capital additions, including the cost of employing CP&L managers and technicians and using CP&L methods and technical expertise, Power Agency shall pay CP&L a fee measured by multiplying the costs of capital additions identified

in Section 7.2, less land, AFUDC, property taxes, retrospective insurance premium adjustments and all amounts payable by the Owners pursuant to Article 15 (other than costs of insurance), by one and one-half percent (1.5%).

(B) In no event shall any fee determined pursuant to Section 7.11(A)(1) be applied to any cost described in Sections 7.2(D) through (G), 7.3, 7.4, 7.5, 7.6 or 7.7.

(C) Payment of all fees specified in this Section 7.11 shall be made monthly pursuant to Article 9.

ARTICLE 8

WORKING CAPITAL FUND AND CAPITAL ADDITIONS ADVANCE FUND

8.1 Initial Establishment of Working Capital Fund and Capital Additions Advance Fund

On the First Closing Date, Power Agency shall deposit with CP&L an amount equal to one-sixth (1/6) of that portion of the annual estimates of the anticipated payments for which Power Agency will be liable as described in Section 9.1(B), which amount shall be deposited by CP&L into a fund known as Power Agency's Working Capital Fund. Power Agency shall also deposit with CP&L on such date an amount equal to one-sixth (1/6) of that portion of the annual estimates of the anticipated payments for which Power Agency will be liable as described in Section 9.3(B), which amount shall be deposited by CP&L into a fund known as Power Agency's Capital Additions Advance Fund; provided, however, that the amount to be deposited into the Capital Additions Advance Fund shall not exceed the sum of the monthly estimates described in Section 9.3(B) for the remainder of the year in which the First Closing Date occurs. CP&L may commingle these funds with other monies under its control, but shall account separately for the amounts provided by Power Agency in accordance with the purposes of such funds described in Sections 8.2 and 8.3 and Article 9.

8.2 Working Capital Fund Use

The Working Capital Fund shall be used in accordance with the provisions of this Agreement, including Sections 9.1(F), 9.2(G) and 9.4(A).

8.3 Capital Additions Advance Fund Use and Annual Reestablishment

The Capital Additions Advance Fund shall be used in accordance with the provisions of this Agreement, including Sections 9.3(F) and 9.4(B). In accordance with Sections 9.3(D)(3) and 9.4(B), the amounts in the Capital Additions Advance Fund shall be drawn down to zero by December 31 of each year beginning with the year in which the First Closing Date occurs. On January 1 of each year following the year in which the First Closing Date occurs, Power Agency shall pay to CP&L an amount equal to one-sixth (1/6) of that portion of the annual estimate for such year of the anticipated payments for which Power Agency will be liable, as described in Section 9.3(B).

8.4 Change in Working Capital Fund Due to Revision of Annual Cost Estimates

When the annual estimates called for in Sections 9.1(B) and 9.2(C) are revised, Power Agency shall, in addition to any other payments called for by Article 9, deposit with CP&L such amount as is necessary to bring the balance of the Working Capital Fund to an amount equal to one-sixth (1/6) of the revised annual estimate for which Power Agency would be liable for that year. Such amount shall be reflected on the next monthly statement to be rendered by CP&L. If such revised estimate reduces the total annual estimate, then the excess amount in the Working Capital Fund shall be a credit against the next monthly statement rendered by CP&L to Power Agency.

8.5 Interest

CP&L shall pay simple interest to Power Agency on its balances in the Working Capital Fund and the Capital Additions Advance Fund calculated at the Adjustment Interest Rate less forty-two thousandths of one percent (0.042%). If the Funds have negative balances, CP&L shall charge simple interest at the same rate. After appropriate adjustments have been made pursuant to Section 9.4, simple interest shall be computed for each month based upon the adjusted balance of such Funds on the first business day of the month at said Adjustment Interest Rate in effect on said day, less forty-two thousandths of one percent (0.042%).

ARTICLE 9

PAYMENT

9.1 Method of Payment for Costs of Operation and Maintenance

(A) Power Agency shall pay a monthly cash advance to CP&L, in accordance with the schedule and procedures set forth below, as an operating advance for CP&L to apply in payment of the costs of operation and maintenance of the Joint Facilities.

(B) Commencing at least sixty (60) days prior to the First Closing Date, and thereafter by December 1 each year, CP&L shall submit an estimate to Power Agency of the cost of operating and maintaining the Joint Facilities for the next calendar year, on a month-to-month basis, and Power Agency's anticipated payments with respect thereto. Such estimate shall include all applicable fees. CP&L shall inform Power Agency of the basis on which such estimate was made. The initial estimate shall also cover the remainder of the year in which the First Closing Date occurs. Either Owner shall have the right at any time to initiate a review of the annual estimate of month-to-month costs for the Joint Facilities as a whole or any part thereof. CP&L shall have the right to change such annual estimate on the basis of any such review and shall inform Power Agency of the basis on which any changes in such estimate were made. In addition, in order to assist Power Agency in the preparation of its annual budget, by November 15 of each year, CP&L shall furnish a preliminary estimate of such costs to the extent that estimates of any such costs are available.

(C) On the first business day of each month after the First Closing Date, CP&L shall submit a statement (O&M Monthly Statement) to Power Agency which sets forth the amount payable by Power Agency in the month next following pursuant to Section 9.1(E). CP&L shall inform Power Agency of the basis on which such statement was made.

(D) Each O&M Monthly Statement submitted for payment by Power Agency (O&M Monthly Advance) shall include:

(1) Power Agency's proportionate share of the anticipated cost of operating and maintaining each of the Joint Facilities in the month next following, to be determined as follows:

(a) After the Final Closing Date -- Brunswick Units = Commitment Ratio (as %) x 18.70%; Roxboro Unit No. 4 = Commitment Ratio (as %) x 13.20%; Harris Units = Commitment Ratio (as %) x 16.50%; and Mayo Units = Commitment Ratio (as %) x 16.50%;

(b) During the period between the First Closing Date and the Final Closing Date -- Brunswick Units = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 18.70%; Roxboro Unit No. 4 = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio

(as %) x 13.20%; and Mayo Unit No. 1 = Cumulative Closing Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 16.50%.

(2) The amount of any fees payable by Power Agency and any other amount due from Power Agency in accordance with any other provision of this Agreement.

(3) The amount of costs payable by Power Agency for systems development and special requests associated with accounting and billing under this Agreement pursuant to Section 7.2(G).

(4) The amount of costs payable by Power Agency pursuant to Article 12.

(E) The O&M Monthly Advance shall be due and payable on the first business day of the month following the date of the statement submitted pursuant to Section 9.1(C). Payment by Power Agency shall be delivered on the date due to CP&L, or to CP&L's account at a bank designated by CP&L. The O&M Monthly Statements submitted pursuant to Section 9.1(C) may not correspond on a monthly basis w[illegible] the annual estimates provided pursuant to Section 9.[illegible](B). The amounts set forth in each O&M Monthly Statement shall govern for the purpose of determining the O&M Monthly Advance due from Power Agency.

(F) Commencing with the third month following the First Closing Date, and each month thereafter, CP&L shall submit a statement to Power Agency on the first day of each such

month which shall show the known expenses and fees incurred in the second previous month supported by a monthly financial and operating report prepared in accordance with the FERC Uniform System of Accounts and in a form prescribed by Power Agency, and the balance, if any, of the O&M Monthly Advance remaining, or the deficit of Power Agency if the month's expenses payable by it exceeded Power Agency's O&M Monthly Advance for the month in question. Such statement shall also correct errors, additions or omissions discovered by either party involving expenses and fees incurred in any prior month, including simple interest on such corrections calculated at the Adjustment Interest Rate, to accrue on a monthly basis from the date of payment of the statement to which such correction is applicable.

When a statement is rendered showing a deficit for any month, CP&L shall offset such deficit by reducing the Working Capital Fund, effective on the first business day of such month. When a statement is rendered showing an excess, CP&L shall credit the Working Capital Fund in the amount of the excess, effective on the first business day of such month.

(G) Simple interest charges shall accrue at the Late Payment Interest Rate on any O&M Monthly Advance due, but not received by CP&L on time, beginning on the first day such payment should have been made pursuant to Section 9.1(E).

9.2 Method of Payment for Costs of Fuel Material and Fuel Services

(A) In accordance with the terms of Section 4.3 of the Sales Agreement and Article 6 of the Sales Agreement, Power Agency shall pay to CP&L upon each Closing Date a portion of the costs of the Initial Fuel Cores and Reload Fuel for the Brunswick Units and the Harris Units. In accordance with the terms of Sections 4.4 and 4.5 of the Sales Agreement and Article 6 of the Sales Agreement, Power Agency shall pay to CP&L, upon each Closing Date, a portion of the costs of the Initial Stockpiles for Roxboro Unit No. 4 and the Mayo Units. In addition, upon each Closing Date, Power Agency shall pay to CP&L the costs described in Sections 7.3(A) and 7.4(A).

(B) Power Agency shall pay periodic cash advances to CP&L, in accordance with the schedule and procedures set forth below, as a fuel advance for CP&L to apply in payment of the costs of Nuclear Fuel Material and Nuclear Fuel Services in connection with Reload Fuel, Fossil Fuel Material and Fossil Fuel Services for Roxboro Unit No. 4 and the Mayo Plant.

(C) Commencing at least sixty (60) days prior to the First Closing Date, and thereafter by December 1 each year, CP&L shall submit an estimate to Power Agency of the cost of Nuclear Fuel Material and Nuclear Fuel Services in connection with Reload Fuel, Fossil Fuel Material and Fossil Fuel Services for Roxboro Unit No. 4 and the Mayo Units for the next calendar year, on a month-to-month basis, and Power Agency's anticipated

payments with respect thereto. Such estimate shall include all applicable fees. CP&L shall inform Power Agency of the basis on which such estimate was made. The initial estimate shall also cover the remainder of the year in which the First Closing Date occurs. Either Owner shall have the right at any time to initiate a review of its annual estimate of month-to-month costs. CP&L shall have the right to change such annual estimate on the basis of any such review and shall inform Power Agency of the basis on which any changes in such estimate were made. In addition, in order to assist Power Agency in the preparation of its annual budget, by November 15 of each year CP&L shall furnish a preliminary estimate of such costs to the extent that estimates of any such costs are available.

(D) On the first business day of each month after the First Closing Date, CP&L shall submit a statement (Fuel Monthly Statement) to Power Agency which sets forth the amount payable by Power Agency in the month next following pursuant to Section 9.2(F). CP&L shall inform Power Agency of the basis on which such statement was made.

(E) Each Fuel Monthly Statement submitted for payment by Power Agency (Fuel Monthly Advance) shall include Power Agency's proportionate share as defined below of the anticipated cost of Nuclear Fuel Material and Nuclear Fuel Services in connection with Reload Fuel, Fossil Fuel Material and Fossil Fuel Services for Roxboro Unit No. 4 and the Mayo Units in the month next

following, plus any amounts payable by Power Agency pursuant to Sections 7.6 and 7.7 of this Agreement in the month next following, plus any applicable fees.

(1) The amount of Power Agency's proportionate share of the anticipated cost, except for costs designated for the Uranium Account, shall be determined as follows:

(a) After the Final Closing Date -- Brunswick Units = Commitment Ratio (as %) x 18.70%; Roxboro Unit No. 4 = Commitment Ratio (as %) x 13.20%; Harris Units = Commitment Ratio (as %) x 16.50%; and Mayo Units = Commitment Ratio (as %) x 16.50%;

(b) During the period between the First Closing Date and the Final Closing Date -- Brunswick Units = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 18.70%; Roxboro Unit No. 4 = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 13.20%; and Mayo Unit No. 1 = Cumulative Closing Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 16.50%.

(2) The amount of Power Agency's proportionate share of the anticipated cost designated to the Uranium Account shall be called Power Agency's contribution and shall be determined in accordance with the provisions of Exhibit OFA-III. Power

Agency's proportionate share of funds to be advanced for nuclear fuel ventures shall be determined pursuant to Section 7.6(C).

(F) The Fuel Monthly Advance shall be due and payable on the first business day of the month following the date of the statement submitted pursuant to Section 9.2(D). Payments by Power Agency shall be delivered to CP&L, or to CP&L's account at a bank designated by CP&L on the date due. The Fuel Monthly Statement submitted pursuant to Section 9.2(E) may not correspond on a monthly basis with the annual estimates provided pursuant to Section 9.2(C). The amounts set forth in each Fuel Monthly Statement shall govern for the purpose of determining the Fuel Monthly Advance due from Power Agency.

(G) Commencing with the third month following the First Closing Date, and each month thereafter, CP&L shall submit a statement to Power Agency on the first day of each such month which shall show the known costs and fees incurred in the second previous month, supported by a monthly financial and operating report prepared in accordance with the FERC Uniform System of Accounts and in a form prescribed by Power Agency, and the balance, if any, of the Fuel Monthly Advance remaining, or the deficit of Power Agency if the month's costs payable by Power Agency exceeded its Fuel Monthly Advance for the month in question. Such statement shall also correct errors, additions or omissions discovered by either party involving costs and fees incurred in any prior month, including simple interest on such

corrections calculated at the Adjustment Interest Rate, to accrue on a monthly basis from the date of payment of the statement to which such correction is applicable.

When a statement is rendered showing a deficit for any month, CP&L shall offset such deficit by reducing the Working Capital Fund effective on the first business day of such month. When a statement is rendered showing an excess, CP&L shall credit the Working Capital Fund in the amount of the excess effective on the first business day of such month.

(H) Simple interest charges shall accrue at the Late Payment Interest Rate on any Fuel Monthly Advance due, but not received by CP&L on time, beginning on the first day such payment should have been made pursuant to Section 9.2(F).

9.3 Method of Payment for Cost of Capital Additions

(A) Power Agency shall pay periodic cash advances to CP&L, in accordance with the schedule and procedures set forth below, as a Capital Additions Advance (Additions Monthly Advance), for CP&L to apply in payment for capital additions to the Joint Facilities.

(B) Commencing at least sixty (60) days prior to the First Closing Date, and thereafter by December 1 each year, CP&L shall submit an estimate to Power Agency of the cost of capital additions to the Joint Facilities, other than those included as a Cost of Construction under the Sales Agreement, for the next calendar year, on a month-to-month basis, and Power Agency's

anticipated payments with respect thereto. Such estimate shall include all applicable fees. CP&L shall inform Power Agency of the basis on which such estimate was made. The initial estimate shall also cover the remainder of the year in which the First Closing Date occurs. Either Owner shall have the right at any time to initiate a review of the annual estimate of month-to-month costs for the Joint Facilities as a whole or any part thereof. CP&L shall have the right to change such annual estimate on the basis of any such review and shall inform Power Agency of the basis on which any changes in such estimate were made. In addition, in order to assist Power Agency in the preparation of its annual budget, by November 15 of each year, CP&L shall furnish a preliminary estimate of such costs to the extent that estimates of any such costs are available.

(C) On the first business day of each month after the the First Closing Date, CP&L shall submit a statement (Additions Monthly Statement) to Power Agency which sets forth the amount payable by Power Agency in the month next following pursuant to Section 9.3(E). CP&L shall inform Power Agency of the basis on which such statement was made.

(D) Each Additions Monthly Statement submitted for payment by Power Agency shall include:

(1) Power Agency's proportionate share of the anticipated cost of capital additions to the Joint Facilities

in the month next following, to be determined according to the following proportions:

(a) After the Final Closing Date -- Brunswick Units = Commitment Ratio (as %) x 18.70%; Roxboro Unit No. 4 = Commitment Ratio (as %) x 13.20%; Harris Units = Commitment Ratio (as %) x 16.50%; and Mayo Units = Commitment Ratio (as %) x 16.50%;

(b) During the period between the First Closing Date and the Final Closing Date -- Brunswick Units = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 18.70%; Roxboro Unit No. 4 = Cumulative Closing Ratio (at last preceding closing) (as %) x Service Ratic (at last preceding closing) (as %) x Commitment Ratio (as %) x 13.20%; and Mayo Unit No. 1 = Cumulative Closing Ratio (at last preceding closing) (as %) x Commitment Ratio (as %) x 16.50%.

(2) The amount of any fees or any other amount payable by Power Agency in regard to a capital addition.

(3) For any month in which the sum of (a) the amount to be included on the Additions Monthly Statement for such month and (b) the currently estimated amounts to be included in the Additions Monthly Statements for subsequent months in the same year exceeds the balance then on deposit in the Capital Additions Advance Fund, the Additions Monthly

Statement shall be credited in the amount necessary to equalize (i) the currently estimated amounts to be included on future Additions Monthly Statements for such year and (ii) the balance then on deposit in the Capital Additions Advance Fund after giving effect to such credit. Credits made to Additions Monthly Statements pursuant to this Section 9.3(D)(3) shall be used to reduce the Capital Additions Advance Fund to zero by each December 31.

(E) The Additions Monthly Advance shall be due and payable on the first business day of the month following the date of the statement submitted pursuant to Section 9.3(C). Payment by Power Agency shall be delivered to CP&L, or to CP&L's account at a bank designated by CP&L on the date due. The Additions Monthly Statement submitted pursuant to Section 9.3(C) may not correspond on a monthly basis with the annual estimates provided pursuant to Section 9.3(B). The amounts set forth in each Additions Monthly Statement shall govern for the purposes of determining the Additions Monthly Advance due from Power Agency.

(F) Commencing with the third month following the First Closing Date, and each month thereafter, CP&L shall submit a statement to Power Agency on the first day of each such month which shall show the known costs and fees incurred and payments made in the second previous month, supported by a monthly financial and operating report prepared in accordance with the FERC Uniform System of Accounts and in a form prescribed by Power

Agency, and the balance, if any, of the Additions Monthly Advance remaining, or the deficit of Power Agency if the balance in the Capital Additions Advance Fund falls below the amounts required pursuant to Sections 8.1, 8.3 and 9.3(D)(3). For purposes of calculating such balances or deficits, CP&L shall subtract from actual charges incurred (1) contract retentions reflected therein and (2) construction related payables reflected therein which are recorded on the construction accounting subsidiary ledger of CP&L to facilitate CP&L's computation of AFUDC. Such statement shall also correct errors, additions or omissions discovered by either party involving costs and fees incurred in any prior month(s), including simple interest on such corrections calculated at the Adjustment Interest Rate.

When a statement is rendered showing an excess advance, CP&L shall credit the Capital Additions Advance Fund in the amount of the excess effective on the first business day of such month. When a statement is rendered showing a deficit for any month, CP&L shall offset such deficit by reducing the Capital Additions Advance Fund effective on the first business day of such month.

(G) Simple interest charges shall accrue at the Late Payment Interest Rate on any Additions Monthly Advance due, but not received by CP&L on time, beginning on the first day such payment should have been made pursuant to Section 9.3(E).

9.4 Monthly Adjustment to Working Capital Fund and Capital Additions Advance Fund

(A) Commencing with the third month following the First Closing Date, and each month thereafter, CP&L shall submit a statement to Power Agency on the first day of each such month which shall show the balance on the last day in the second previous month in the Working Capital Fund and all adjustments thereto pursuant to Sections 8.4, 8.5, 9.1(F), 9.2(G) and this Section 9.4(A). If such statement shows an adjusted balance in excess of that required by the then-applicable Section of Article 8, such excess shall be credited to the payment due on such statement and shall be removed from the Working Capital Fund upon the payment of such statement. If such statement shows a current deficit below that required by the applicable Section of Article 8, such deficit shall be reflected on such monthly statement rendered by CP&L, and shall be credited to the Working Capital Fund upon payment.

(B) Commencing with the third month following the First Closing Date, and each month thereafter, CP&L shall submit a statement to Power Agency on the first day of each such month which shall show the balance on the last day in the second previous month in the Capital Additions Advance Fund and all adjustments thereto pursuant to Sections 8.3, 8.5, 9.3(D)(3), 9.3(F), and this Section 9.4(B). If such statement shows an adjusted balance in excess of that required by the applicable

Section of Article 8, such excess shall be credited to the payment due on such statement and shall be removed from the Capital Additions Advance Fund upon the payment of such statement. If such statement shows a current deficit below the amount required by the applicable Section of Article 8, such deficit shall be reflected on such monthly statement rendered by CP&L and shall be credited to the Capital Additions Advance Fund upon payment.

9.5 Offsets

Payments due and payable by one Owner to the other Owner under this Agreement may be offset first against payments then due and payable to the first Owner by the second Owner under this Agreement and only then may any remaining amounts be offset against payments due under the Power Coordination Agreement. Payments due and payable hereunder shall not be subject to any offset of any nature arising outside this Agreement or outside the Power Coordination Agreement.

9.6 Challenges

Power Agency may challenge the correctness of any statement, estimate, payment or adjustment (including any payments previously made for the item so adjusted) made pursuant to this Agreement only if its objections, in writing, are received by CP&L no later than April 1 of the second year after the year in which the challenged statement or adjustment was rendered or the challenged payment was made. Notwithstanding the existence

of any challenge or the lack thereof, CP&L shall have the right to initiate correction of errors in any statement or adjustment by giving Power Agency notice thereof no later than April 1 of the second year after the year in which the statement or adjustment was rendered. The parties shall undertake to resolve challenges or corrections within a reasonable time and if the matter is unresolved for sixty (60) days after the challenge by Power Agency or correction by CP&L is initiated, either party, at any time following such sixty (60) day period, may inform the other party in writing that a formal dispute exists. Within sixty (60) days following such notice, the party giving notice shall submit the dispute for arbitration pursuant to Article 16 and, if not submitted to arbitration within such sixty (60) days, the challenge or correction shall be conclusively terminated and without effect. In the event of such a challenge or correction, the review of the challenged or corrected statement or adjustment shall not be limited to the items challenged by Power Agency or corrected by CP&L, but shall include any other items which CP&L chooses to raise in a challenge or Power Agency chooses to raise in a correction and any such item shall also be subject to adjustment. Except as specifically provided in Section 2.3(J), no challenge, disagreement or dispute relating to the reasonableness or correctness of any such charge or fee shall permit Power Agency to delay or withhold any payment due hereunder.

9.7 Audits

By April 1 of each year following the First Closing Date, CP&L shall have an audit made of the accounts relating to the payments due under this Agreement. The costs of such audits shall be borne by Power Agency. Such audits shall be made by the independent certified public accountant performing CP&L's annual audit, who shall be nationally recognized and licensed, registered or entitled to practice under the laws of North Carolina. A copy of each such audit showing the costs involved, in reasonable detail, and the amount each Owner has heretofore paid shall be furnished promptly to each Owner.

The costs of the audits performed pursuant to this Section shall be included in Power Agency's costs in determining the payments made by CP&L under the Power Coordination Agreement for Purchased Capacity.

ARTICLE 10

SPARE PARTS, TOOLS AND EQUIPMENT

10.1 Obligation to Maintain Stock

Spare parts, tools and equipment shall be maintained at the Joint Facilities, at a level in accordance with CP&L Operating Practice, taking into account the program of transfer and exchange provided for in Section 10.2. The cost of the original stock of such items shall be reflected in the Cost of Construction, as defined in the Sales Agreement, of the Harris and Mayo Plants and is included in the purchase prices of Roxboro Unit No. 4 and the Brunswick Plant. The cost of replacement of such original stock shall be included in the operation and maintenance expense of the Joint Facilities in accordance with CP&L's accounting methods applied to all of its generating facilities.

10.2 Transfer and Exchange

(A) From time to time, CP&L may, but shall not be required to, transfer or exchange spare parts, tools, or equipment between Units at the Joint Facilities, between the Joint Facilities and other facilities operated by either of the Owners or other utilities in accordance with CP&L Operating Practice; provided, however, a transfer or exchange from a Joint Facility may not take place if to do so would require a shutdown or reduction in the output of a Unit or Units at the Joint Facility, or the reasonably known likelihood thereof, without Power Agency's prior written consent.

(B) Any item transferred or exchanged shall be replaced at the earliest practicable date. The replacement cost of the item so transferred shall be borne by the Owner of the Unit, Joint Facility or other facility to which such item is transferred or exchanged, and the price thereof shall be the replacement cost of the item transferred F.O.B. the original location of the item. In the event that it is determined that the item transferred need not be replaced, the applicable accounts shall be credited at original cost.

ARTICLE 11

INSURANCE

11.1 Harris Plant

(A) All Risk Property Insurance -- CP&L shall obtain and maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, all risk property insurance covering Owners' properties at the Harris Plant in the form available from, or equivalent to that available from, Nuclear Mutual Limited. The limit of such insurance coverage shall be the maximum amount available from Nuclear Mutual Limited for a nuclear generating plant not to exceed the values at risk at the Harris Plant; provided, however, the limit of such insurance coverage prior to first delivery of nuclear fuel to the Harris Plant shall be $100,000,000. Except as otherwise provided in this Article 11, any loss not reimbursed by insurance proceeds shall be borne by the Owners of the affected property in proportion to their respective interests in such property. The cost of the builder's risk portion of the all risk insurance coverage shall be considered a Cost of Construction and shall be allocated between and borne by the Owners in the same manner as other Costs of Construction associated with the Harris Plant. The cost of the operating plant portion of the all risk property insurance coverage shall be considered an operating expense of the Harris Plant and shall be allocated between and borne by the

Owners in the same manner as other operating expenses associated with the Harris Plant. As long as Nuclear Mutual Limited's insuring agreements permit the insurance company to make retrospective premium adjustments for a given policy year, CP&L shall bear the additional premium cost resulting from any retrospective premium adjustment made by Nuclear Mutual Limited and shall be entitled to any good experience credit and/or any increment to its share account resulting from premiums paid for all risk property insurance coverage at the Harris Plant.

(B) Nuclear Liability Insurance and Governmental Indemnity

(1) CP&L shall obtain and maintain in force (i.e., carry), in the name of the Owners as their interests may appear, nuclear liability insurance in such form, in such amount and for such term as will meet the financial responsibility requirements established from time to time by the NRC, or any successor governmental agency, pursuant to Section 170 of the Atomic Energy Act of 1954, as amended. The allocation of premiums at any time among each of the Harris Units shall be in proportion to the ratable exposure of each such Unit to the total ratable exposure of the Harris Pla... As to each Harris Unit which is not yet in Commercial Operation, such allocated portion of premiums for nuclear liability insurance shall be considered a Cost of Construction of the Harris Plant and shall be allocated between and borne by the Owners in the same manner as other Costs of Construction associated with the Harris Plant. As to each Harris Unit which

is in Commercial Operation, such allocated portion of premiums for nuclear liability insurance shall be considered an operating expense of the Harris Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Harris Plant.

(2) The Owners shall enter into the governmental indemnity agreements required by Section 170 of the Atomic Energy Act of 1954, as amended. The cost of such indemnity, including any retrospective premium liability (deferred premiums), shall be borne by the Owners in proportion to their interest in the Joint Facilities covered by the governmental indemnity. Each Owner shall be responsible for guaranteeing its portion of any retrospective premium liability which may be required by the NRC, or any successor governmental agency. Any reimbursement required to be made to an insurance carrier, surety or governmental agency because of the default of either Owner in payment of a retrospective premium shall be for the account of the defaulting Owner.

(3) In the event that the nuclear liability protection system contemplated by Section 170 of the Atomic Energy Act of 1954, as amended, is repealed, the Owners shall maintain in effect during the period of operation and until the completion of decommissioning of each Joint Unit at the Harris Plant and with respect thereto, to the extent available and consistent with generally accepted electric utility industry

practice in the United States, a liability protection system consisting of governmental indemnity, limitation of liability and/or nuclear liability insurance.

(C) Extra Expense Insurance -- CP&L shall obtain and maintain in force (*i.e.*, carry), in the name of the Owners as their interests may appear, insurance coverage against the extra expense incurred in obtaining replacement power during prolonged accidental outages of the Joint Units at the Harris Plant in the form available from, or equivalent to that available from, Nuclear Electric Insurance Limited. The limit of insurance coverage shall be the maximum amount available from Nuclear Electric Insurance Limited for the Harris Plant. The cost of the extra expense insurance shall be considered an operating expense of the Harris Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Harris Plant. As long as the Nuclear Electric Insurance Limited insuring agreements permit the insurance company to make retrospective premium adjustments for a given policy year, CP&L shall bear the additional premium cost resulting from any retrospective premium adjustment made by Nuclear Electric Insurance Limited and shall be entitled to any good experience credit and/or increment to its share account resulting from premiums paid for extra expense insurance coverage of the Joint Units at the Harris Plant.

(D) Non-Nuclear Liability Insurance --

(1) During construction of the Harris Plant, and with respect to claims arising out of construction activities at the Harris Plant, Daniel Construction Company is insuring the interests of the Owners and constructor against exposures covered by the following types of insurance to a maximum limit of $25,000,000: Worker's Compensation/Employer Liability Insurance; Comprehensive General Liability Insurance; and Motor Vehicle Liability Insurance.

(2) Prior to the date of Commercial Operation of the first Joint Unit to achieve Commercial Operation at the Harris Plant, CP&L shall obtain and thereafter maintain in force (i.e., carry), at its sole cost and expense, public liability insurance coverage insuring CP&L against liability to third persons and their property in limits of not less than $25,000,000 in excess of a deductible (i.e., retention) of $1,000,000. CP&L shall make reasonable efforts to have Power Agency included as an additional insured on its public liability insurance policy. Any additional cost actually incurred by CP&L solely as a result of the inclusion of Power Agency on CP&L's public liability insurance coverage shall be borne by Power Agency.

(E) Worker's Compensation -- All uninsured costs incurred by the Owners, or either one of them, associated with claims arising prior to the date of Commercial Operation of any Harris Unit for payments to or for the benefit of covered CP&L

employees at the Harris Plant shall be considered a Cost of Construction of the Harris Unit as to which such claims relate and shall be allocated between and borne by the Owners in the same manner as other Costs of Construction associated with the Harris Plant. All uninsured costs incurred by the Owners, or either one of them, associated with claims arising after the date of Commercial Operation of any Harris Unit for payments to or for the benefit of covered CP&L employees at the Harris Plant shall be considered an operating expense of the Harris Unit as to which such claims relate and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Harris Plant.

(F) Other Insurance -- CP&L may obtain and maintain in force (i.e., carry) transit, contractor's equipment and such other insurance coverages as utilities of similar size may from time to time purchase to protect against risks of loss at nuclear-fueled generating plants. The cost of such insurance coverages for the Harris Plant, and any other insurance related expenses chargeable to the Harris Plant in accordance with generally accepted utility accounting practices, which are incurred by CP&L prior to the date of Commercial Operation of a Harris Unit shall be considered a Cost of Construction of the Harris Unit as to which such costs relate and shall be allocated between and borne by the Owners in the same manner as other Costs of Construction associated with the Harris Plant. The costs of such insurance

coverages for the Harris Plant, and any other insurance-related expenses chargeable to the Harris Plant in accordance with generally accepted utility accounting practices, which are incurred by CP&L after the date of Commercial Operation of a Harris Unit shall be considered an operating expense of the Harris Unit as to which such costs relate and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Harris Plant.

11.2 Brunswick Plant

(A) All Risk Property Insurance -- CP&L shall maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, all risk property insurance covering Owners' properties at the Brunswick Plant in the form available from, or equivalent to that available from, Nuclear Mutual Limited. The limit of such insurance coverage shall be the maximum amount available from Nuclear Mutual Limited for a nuclear generating plant not to exceed the values at risk at the Brunswick Plant. Except as otherwise provided in this Article 11, any loss not reimbursed by insurance proceeds shall be borne by the Owners of the affected property in proportion to their respective interests in such property. The cost of the all risk property insurance coverage shall be considered an operating expense of the Brunswick Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Brunswick

Plant. As long as Nuclear Mutual Limited's insuring agreements permit the insurance company to make retrospective premium adjustments for a given policy year, CP&L shall bear the additional premium cost resulting from any retrospective premium adjustment made by Nuclear Mutual Limited and shall be entitled to any good experience credit and/or any increment to its share account resulting from premiums paid for all risk property insurance coverage at the Brunswick Plant.

(B) Nuclear Liability Insurance and Governmental Indemnity

(1) CP&L shall maintain in force (i.e., carry), in the name of the Owners as their interests may appear, nuclear liability insurance in such form, in such amount and for such term as will meet the financial responsibility requirements established from time to time by the NRC, or any successor governmental agency, pursuant to Section 170 of the Atomic Energy Act of 1954, as amended. The costs of such insurance shall be considered an operating expense of the Brunswick Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Brunswick Plant.

(2) The Owners shall enter into the governmental indemnity agreements required by Section 170 of the Atomic Energy Act of 1954, as amended. The cost of such indemnity, including any retrospective premium liability (deferred premiums), shall be

borne by the Owners in proportion to their interests in the Joint Facilities covered by the governmental indemnity. Each Owner shall be responsible for guaranteeing its portion of any retrospective premium liability which may be required by the NRC, or any successor governmental agency. Any reimbursement required to be made to any insurance carrier, surety or governmental agency because of the default of an Owner in payment of a retrospective premium shall be for the account of the defaulting Owner.

(3) In the event that the nuclear liability protection system contemplated by Section 170 of the Atomic Energy Act of 1954, as amended, is repealed, the Owners shall maintain in effect during the period of operation and until the completion of decommissioning of each Joint Unit at the Brunswick Plant and with respect thereto, to the extent available and consistent with generally accepted electric utility industry practice in the United States, a liability protection system consisting of governmental indemnity, limitation of liability and/or nuclear liability insurance.

(C) Extra Expense Insurance -- CP&L shall obtain and maintain in force (i.e., carry), in the name of the Owners as their interests may appear, insurance coverage against the extra expense incurred in obtaining replacement power during prolonged accidental outages of the Joint Units at the Brunswick Plant in the form available from, or equivalent to that available

from, Nuclear Electric Insurance Limited. The limit of insurance coverage shall be the maximum amount available from Nuclear Electric Insurance Limited for the Brunswick Plant. The cost of the extra expense insurance shall be considered an operating expense of the Brunswick Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Brunswick Plant. As long as the Nuclear Electric Insurance Limited insuring agreement permits the insurance company to make retrospective premium adjustments for a given policy year, CP&L shall bear the additional premium cost resulting from any retrospective premium adjustment made by Nuclear Electric Insurance Limited and shall be entitled to any good experience credit and/or increment to its share account resulting from premiums paid for extra expense insurance coverage of the Joint Units at the Brunswick Plant.

(D) Non-Nuclear Liability Insurance -- CP&L shall obtain and maintain in force (i.e., carry) at its sole cost and expense, public liability insurance coverage insuring CP&L against liability to third persons and their property in limits of not less than $25,000,000 in excess of a deductible (i.e., retention) of $1,000,000. CP&L shall make reasonable efforts to have Power Agency included as an additional insured on its public liability insurance policy. Any additional cost actually incurred by CP&L solely as a result of the inclusion of Power Agency on CP&L's public liability insurance coverage shall be borne by Power Agency.

(E) Worker's Compensation -- All uninsured costs incurred by the Owners, or either one of them, for payments to or for the benefit of covered CP&L employees at the Brunswick Plant shall be considered an operating expense of the Brunswick Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Brunswick Plant.

(F) Other Insurance -- CP&L may obtain and maintain in force (i.e., carry) transit, contractor's equipment and such other insurance coverages as utilities of similar size may from time to time purchase to protect against risks of loss at nuclear-fueled generating plants. The cost of such insurance coverages for the Brunswick Plant and any other insurance-related expenses chargeable to the Brunswick Plant in accordance with generally accepted electric utility accounting practices shall be considered an operating expense of the Brunswick Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Brunswick Plant.

11.3 Mayo Plant

(A) Property Insurance --

(1) CP&L shall obtain and maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, during the construction of the Mayo

Plant, all risk builders' risk property insurance in the form available to CP&L as an Ebasco, Incorporated client company underwritten (i.e., insured by) by Insurance Company of North America and other participating insurance companies. The limit of such insurance coverage shall be $50,000,000 in excess of a deductible (i.e., retention) not to exceed $50,000 per occurrence. The cost of such insurance coverage shall be considered a cost of construction of the Mayo Plant and shall be allocated between and borne by the Owners in the same manner as other costs of construction associated with the Mayo Plant.

(2) CP&L shall obtain and maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, during the operation of each Mayo Unit which is in Commercial Operation, property insurance coverage under a broad form named perils policy covering all generating properties of CP&L (except the nuclear-fueled generating plants and H. B. Robinson Unit No. 1). The perils covered shall include: fire and lightning; windstorm; hail; riot; riot attending a strike; civil commotion; explosion; implosion; aircraft; vehicles; smoke damage; vandalism and malicious mischief; electrical injury; collapse; falling objects; weight of snow; ice or sleet; and water damage. The minimum limit of such blanket insurance coverage shall be $100,000,000 in excess of a deductible (i.e., retention) not to exceed $250,000 per occurrence. The cost of such insurance

coverage for the Mayo Plant shall be considered an operating expense of the Mayo Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Mayo Plant.

(3) CP&L shall obtain and maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, during the operation of each Mayo Unit which is in Commercial Operation, Primary Boiler Insurance Coverage and Excess Boiler & Turbine Insurance Coverage. The Primary Boiler Insurance Coverage shall be in the form available from, or equivalent to that available from, American Motorist Insurance Company, with a limit of $500,000 per occurrence and subject to a deductible (i.e., retention) of $100,000. The Excess Boiler & Turbine Insurance shall be in the form available from, or equivalent to that available from, Utility Services Insurance Company, Ltd., with a minimum limit of $2[illegible],000,000 for boiler coverage and $22,000,000 for turbine coverage subject to such reasonable deductibles (i.e., retentions) as CP&L shall select. The cost of such insurance coverages for the Mayo Plant shall be considered an operating expense of the Mayo Plant and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Mayo Plant.

(4) Except as otherwise provided in this Article 11, any loss not reimbursed by insurance proceeds shall be

borne by the Owners of the affected property in proportion to their respective interests in such property.

(B) Liability Insurance --

(1) During the construction of the Mayo Plant, and with respect to claims arising out of construction activities at the Mayo Plant, CP&L is insuring, under an owner-controlled insurance program, the interests of the Owners and participating contractors against exposures covered by the following types of insurance to a maximum limit of $11,000,000: Worker's Compensation/Employer Liability Insurance and Comprehensive General Liability Insurance.

(2) CP&L shall obtain and maintain in force (i.e., carry), at its sole cost and expense, public liability insurance coverage insuring CP&L against liability to third persons and their property in limits of not less than $25,000,000 in excess of a deductible (i.e., retention) of $1,000,000. CP&L shall make reasonable efforts to have Power Agency included as an additional insured on its public liability insurance policy. Any additional cost actually incurred by CP&L solely as a result of the inclusion of Power Agency on CP&L's public liability insurance coverage shall be borne by Power Agency.

(C) Worker's Compensation -- All uninsured costs incurred by the Owners, or either one of them, associated with claims arising prior to the date of Commercial Operation of

any Mayo Unit for payments to or for the benefit of covered CP&L employees at the Mayo Plant shall be considered a Cost of Construction of the Mayo Unit as to which such claims relate and shall be allocated between and borne by the Owners in the same manner as other Costs of Construction associated with the Mayo Plant. All uninsured costs incurred by the Owners, or either one of them, associated with claims arising after the date of Commercial Operation of any Mayo Unit for payments to or for the benefit of covered CP&L employees at the Mayo Plant shall be considered an operating expense of the Mayo Unit as to which such claims relate and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Mayo Plant.

(D) Other Insurance -- CP&L may obtain and maintain in force (i.e., carry) transit, contractor's equipment and such other insurance coverages as utilities of similar size may from time to time purchase to protect against risks of loss at fossil-fueled generating plants. The costs of such insurance coverages for the Mayo Plant, and any other insurance-related expenses chargeable to the Mayo Plant in accordance with generally accepted electric utility accounting practices, which are incurred by CP&L prior to the date of Commercial Operation of a Mayo Unit shall be considered a Cost of Construction associated with the Mayo Unit as to which such costs relate and shall be allocated between and borne by the Owners in the same manner as other Costs of Construction associated with the Mayo Plant.

The costs of such insurance coverages for the Mayo Plant, and any other insurance related expenses chargeable to the Mayo Plant in accordance with generally accepted electric utility accounting practices, which are incurred by CP&L after the date of Commercial Operation of a Mayo Unit shall be considered an operating expense of the Mayo Unit as to which such costs relate and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with the Mayo Plant.

11.4 Roxboro Unit No. 4

(A) Property Insurance --

(1) CP&L shall obtain and maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, during the operation of Roxboro Unit No. 4, property insurance coverage under a broad form named perils policy covering all generating properties of CP&L (except the nuclear-fueled generating plants and H. B. Robinson Unit No. 1). The perils covered shall include: fire and lightning; windstorm; hail; riot; riot attending a strike; civil commotion; explosion; implosion; aircraft; vehicles; smoke damage; vandalism and malicious mischief; electrical injury; collapse; falling objects; weight of snow; ice or sleet; and water damage. The minimum limit of such blanket insurance coverage shall be $100,000,000 in excess of a deductible (i.e., retention) not to exceed $250,000 per occurrence. The cost of such insurance coverage for Roxboro Unit No. 4 shall be considered an operating expense of Roxboro

Unit No. 4 and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with Roxboro Unit No. 4.

(2) CP&L shall obtain and maintain in force (i.e., carry), in the name of CP&L with the loss payable to the Owners as their interests may appear, during the operation of Roxboro Unit No. 4, Primary Boiler Insurance Coverage and Excess Boiler & Turbine Insurance Coverage. The Primary Boiler Insurance Coverage shall be in the form available from, or equivalent to that available from, American Motorist Insurance Company, with a limit of $500,000 per occurrence and subject to a deductible (i.e., retention) of $100,000. The Excess Boiler & Turbine Insurance shall be in the form available from, or equivalent to that available from, Utility Services Insurance Company, Ltd., with a minimum limit of $25,000,000 for boiler coverage and $22,000,000 for turbine coverage subject to such reasonable deductibles (i.e., retentions) as CP&L shall select. The cost of such insurance coverage for Roxboro Unit No. 4 shall be considered an operating expense associated with Roxboro Unit No. 4 and shall be allocated between and borne by the Owners in the same manner as other operating expenses of Roxboro Unit No. 4.

(3) Except as otherwise provided for in this Article 11, any loss not reimbursed by insurance proceeds shall be borne by the Owners of the affected property in proportion to their respective interests in such property.

(B) Liability Insurance -- CP&L shall obtain and maintain in force (i.e., carry), at its sole cost and expense public liability insurance coverage insuring CP&L against liability to third persons and their property in limits of not less than $25,000,000 in excess of a deductible (i.e., retention) of $1,000,000. CP&L shall make reasonable efforts to have Power Agency included as an additional insured on its public liability insurance policy. Any additional cost actually incurred by CP&L solely as a result of the inclusion of Power Agency on CP&L's public liability insurance coverage shall be borne by Power Agency.

(C) Worker's Compensation -- All uninsured costs incurred by the Owners, or either one of them, for payments to or for the benefit of covered CP&L employees at Roxboro Unit No. 4 shall be considered an operating expense of Roxboro Unit No. 4 and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with Roxboro Unit No. 4.

(D) Other Insurance -- CP&L may obtain and maintain in force (i.e., carry) transit, contractor's equipment and such other insurance coverages as utilities of similar size may from time to time purchase to protect against risks of loss at fossil-fueled generating plants. The costs of such insurance coverages for Roxboro Unit No. 4, and any other insurance-related expenses chargeable to Roxboro Unit No. 4 in accordance with generally

accepted electic utility accounting practices, shall be considered an operating expense of Roxboro Unit No. 4 and shall be allocated between and borne by the Owners in the same manner as other operating expenses associated with Roxboro Unit No. 4.

11.5 General Provisions

(A) Copies of Insurance Policies -- Not less than thirty (30) days prior to the First Closing Date, CP&L shall provide Power Agency with certified copies of all insurance policies required to be obtained by CP&L pursuant to this Article 11, or other evidence of coverage satisfactory to Power Agency pending availability of the certified copies of the insurance policies.

(B) Additional or Substitute Insurance of Power Agency -- As a substitute for or in addition to the insurance coverage on the Owners' exposures to be obtained by CP&L (including any self-insurance by CP&L) which is provided for in this Article 11, Power Agency may self-insure or may obtain and maintain, at its sole cost and expense, such insurance coverage as it deems necessary or advisable in substitution for or in addition to the insurance coverage obtained by CP&L pursuant to this Article 11; provided, however, that self-insurance by Power Agency, or such additional or substitute insurance on Power Agency's exposures, shall not reduce or diminish in any way the insurance coverage maintained by CP&L on its own exposures as contemplated by this Article 11, and shall not increase

the costs to CP&L for such insurance coverage. In the event that Power Agency self-insures or obtains any insurance coverage on its exposures as a substitute for insurance coverage obtained by CP&L, then Power Agency shall not be assigned any portion of the premium or other costs incurred by CP&L in obtaining or maintaining in force the substituted insurance coverage, nor shall Power Agency be entitled to share in the proceeds of such substituted insurance coverage.

ARTICLE 12

OPERATIONS REVIEW AND OTHER MATTERS

12.1 Operations Review Committee and Capital Additions Review

Not later than thirty (30) days prior to the First Closing Date, the parties shall form an Operations Review Committee with no more than two (2) members appointed by each Owner. The first Owner representatives shall be appointed at the First Closing Date, and the representatives so appointed shall remain representatives of such Owner until changed by that Owner by written notice to the other Owner. Either Owner may, by written notice to the other Owner, designate an alternate or substitute to act as such representative in the absence of any of its regular members, or to participate in lieu of the regular representative on specified occasions or with respect to specific matters. The Committee shall adopt such rules of procedure as it deems appropriate. Each Owner shall be responsible for the personal expenses of its Committee members. All other expenses of the Committee shall be a cost of operation and maintenance.

The Committee shall periodically meet and review the operation of, maintenance and fueling of, and capital additions to the Joint Facilities on such schedule as it deems necessary, taking into consideration the operating requirements of the Joint Facilities, but not less often than quarterly. Any members or

representatives of the governing bodies of the Participants may attend such meetings. CP&L shall keep the Committee informed concerning the Joint Facilities' operation, maintenance, fueling and capital additions, and the Committee shall make recommendations to CP&L with respect thereto. CP&L shall diligently consider all such recommendations and shall make available to the Committee information reasonably requested by it and such of CP&L's operating personnel as are reasonably necessary (taking into consideration the operating requirements of the Combined System) to evaluate such recommendations. However, CP&L shall retain control and responsibility for operation of, maintenance and fueling of, and capital additions to the Joint Facilities pursuant to this Agreement.

At Power Agency's request, CP&L shall provide a formal presentation to Power Agency representatives on capital additions to the Joint Facilities, including an opportunity for discussion of those capital additions to the Joint Facilities covered by the formal presentation. These presentations shall be held at a time and place convenient to Power Agency and CP&L but not more often than quarterly. In addition to representatives of CP&L and Power Agency, representatives of architect-engineers, contractors, or consultants may, at the request of either Owner, attend such meetings.

The Owners shall attempt to resolve any dispute as between themselves, and as between Power Agency and CP&L as

operator, arising during or subsequent to any Committee meeting with respect to operation of, maintenance and fueling of, and capital additions to the Joint Facilities during the prior quarter, and such proposed activities for the current quarter or for any activity requiring agreement between the Owners. Except as arbitration of disputes regarding operation of, maintenance and fueling of, and capital additions to the Joint Facilities is limited by Sections 2.3(I), 2.3(J), 2.3(K), 3.1(G) and 3.1(H), any such matter not so resolved may be submitted to arbitration in accordance with Article 16, but only if such matter is so submitted within thirty (30) days after the Committee meeting next following the regular quarterly Committee meeting at which the dispute was first noted and referred to as an item in dispute specifically raised by either party under an agenda item entitled "Challenges and Disputes" in the minutes of such Committee meeting; provided, however, the representatives of CP&L and Power Agency at such next following Committee meeting may agree in writing that the disputed matter is to be carried over to the next subsequent meeting in which event the time for submitting the matter to arbitration shall be tolled for the period between such Committee meetings.

12.2 Liaison Representative for Joint Facilities

CP&L shall provide a Liaison Representative whose defined duties shall include (a) the responsibility to cooperate with Power Agency in meeting its needs for all information reasonably requested with respect to operation and

maintenance of, construction and completion of capital additions to, and the provision of Fuel Management Services for the Joint Facilities and the costs thereof and (b) the responsibility for obtaining and coordinating adequate response by CP&L to such needs. The Liaison Representative's duties shall also include responsibility for obtaining and coordinating monthly progress payment estimates, information concerning costs of operation and maintenance of, costs of construction of capital additions to, and costs of providing Fuel Management Services for the Joint Facilities, and information or other assistance relating to Power Agency financings. The Liaison Representative shall be an employee of CP&L with the responsibilities and obligations attendant thereto. Power Agency shall pay all direct and indirect costs of the Liaison Representative in meeting his responsibilities to Power Agency, including, but not limited to, the direct costs associated with employment of the Liaison Representative. In addition, Power Agency shall pay all direct and indirect costs not specified in this Agreement and the Related Agreements as a cost of operation and maintenance of, cost of construction of capital additions to, and cost of provision of Fuel Management Services for the Joint Facilities that CP&L incurs, including hourly costs of other CP&L personnel, in providing Power Agency with information, reports and assistance when the Liaison Representative is responsible for obtaining and coordinating such information, reports or assistance. Any costs of the Liaison

Representative for work performed other than for Power Agency, including a properly allocated portion of the overhead costs, shall be excluded from the costs of Power Agency determined pursuant to this Section 12.2.

The cost, fees and payments described in this Section 12.2 shall be included in Power Agency's costs in determining the payments made by CP&L under the Power Coordination Agreement for Purchased Capacity.

ARTICLE 13

FORCE MAJEURE

13.1 Excuse of Performance

Notwithstanding anything in this Agreement to the contrary, neither party shall be liable or responsible for failure to carry out any of its obligations under this Agreement caused by Force Majeure; provided, however, that this Article shall not apply to the parties' obligations to make payments or give credits as specified in Article 9.

13.2 Definition

The term "Force Majeure" as used herein shall mean any cause beyond the control of the party affected, and which by reasonable efforts the party affected is unable to overcome, including without limitation the following: acts of God; fire, flood, landslide, lightning, earthquake, volcanic eruption, hurricane, tornado, storm, freeze, or drought; blight, famine, epidemic or quarantine; strike, lockout or other labor difficulty; act or failure to act of the other party (and such party so acting or failing to act shall not use its act or failure to act to excuse any other obligation which it has under this Agreement); act or failure to act of any regulatory agency or other governmental authority; changes in the work or delays caused by public bidding requirements; theft; casualty; accident; equipment breakdown; failure or shortage of, or inability to obtain from usual

sources, goods, labor, equipment, information or drawings, machinery, supplies, energy, fuel or materials; embargo; injunction; litigation or arbitration with suppliers or vendors; shortage of rolling stock; arrest; war; civil disturbance; explosion; act of public enemies; sabotage; invasion; or breach of contract by any supplier, contractor, sub-contractor, laborer or materialman. Either party rendered unable to fulfill any obligation under this Agreement by reason of Force Majeure shall make reasonable efforts to remove such inability within a reasonable time.

13.3 Continuation after Force Majeure Event

(a) If, due to an event of Force Majeure which causes the operation (including, without limitation, the fueling) of any Joint Facility to be interrupted or suspended for a period of at least six (6) months, CP&L as operator recommends in writing to the other Owner that operation of any of the Joint Facilities or any Unit thereof be discontinued on the ground that continuation of such operation would be impracticable under CP&L Operating Practice, the Owners shall attempt to agree as to whether operation of any Unit or all Units shall continue. If agreement is not reached within six (6) months after receipt of such recommendation by the other Owner (or such later time as the Owners shall agree), CP&L may terminate its responsibility for operation and maintenance of that Unit with respect to which it has recommended discontinuation of operations.

(B)(1) If Power Agency desires to continue operation of Joint Facilities for which CP&L has terminated its responsibility for operation and maintenance pursuant to Section 13.3(A), Power Agency shall have the right to purchase CP&L's ownership interest in such Joint Facilities and shall succeed to the rights and obligations of CP&L under this Agreement with respect to such Joint Facilities.

(2) If the parties cannot agree upon a price within sixty (60) days after CP&L's termination of operation and maintenance responsibility pursuant to Section 13.3(A), the determination of the fair market value of CP&L's ownership interest may be submitted to arbitration. In such event, Power Agency may obtain title at any time after giving notice of Intent to Proceed with Arbitration pursuant to Article 16 by paying to CP&L, in such manner as CP&L may reasonably require, an amount equal to (a) the net plant investment in such Joint Facilities, plus (b) the actual net effect on CP&L's federal and state income taxes (including tax on capital gains) associated with the sale to Power Agency of such investment as is attributable to AFUDC not previously amortized, calculated in a manner similar to that set forth in Exhibit SA-V-6 of the Sales Agreement.

(3) Should the final determination of fair market value as determined through arbitration be higher than the amount paid pursuant to Section 13.3(B)(2), Power Agency shall make such additional payment, in such manner as CP&L may reason-

ably require, as shall make the total purchase price equal to the fair market value. In addition, Power Agency shall pay CP&L simple interest, calculated at the Compensatory Interest Rate, on the amount of such additional payment for the period beginning with the date of acquisition of title by Power Agency in such Joint Facilities and ending with the date of such additional payment. Such additional payment, including simple interest thereon, shall be paid as soon after the date of the Arbitrator's decision as Power Agency can effect the necessary financing using reasonable best efforts.

(C) During any period in which there is an interruption, suspension or discontinuation of operations pursuant to this Section 13.3, any cost of maintaining that part of the Plant at which such interruption, suspension or discontinuation occurs shall be a cost of operation and maintenance, and shall be borne by the Owners in accordance with their respective ownership interests in the Plant or Unit affected.

ARTICLE 14

GOVERNMENTAL AND REGULATORY APPROVALS

14.1 CP&L's Responsibilities

CP&L shall use all reasonable efforts to obtain and maintain, or amend, as necessary, all required governmental and regulatory approvals for operation, cessation of operations, or decommissioning of the Joint Facilities. Power Agency shall co-operate fully with CP&L in taking all actions required in order to obtain, retain or amend all such approvals. CP&L shall have the right to negotiate with any governmental or regulatory agency and may agree on behalf of the Owners with respect to such approvals provided that such agreement is not inconsistent with this Agreement or the Related Agreements. All costs incurred pursuant to this Article shall be treated as costs of capital additions, costs of operation and maintenance, or costs of construction, as appropriate, and shall be paid in the same manner as provided for in this Agreement or, as appropriate, in accordance with the Sales Agreement.

14.2 Procedure in Event of Failure to Obtain or Retain Necessary Approvals

(A) In the event either party fails for any reason to obtain retain any governmental or regulatory approval, or takes or fails to take any action which prevents the other party from obtaining, retaining, or amending any governmental

or regulatory approval without which approval the operation, cessation of operations, or decommissioning of the Joint Facilities or a Unit thereof cannot proceed, the Owners shall first use all reasonable efforts to take such actions as are required in order to effect the necessary approval without affecting CP&L's status as operator of the Joint Facilities.

(B) If the Owners are unable after a reasonable period of time to effect the necessary approval in accordance with Section 14.2(A), then the provisions of Section 10.3(B)(2), and thereafter Section 10.3(B)(5), of the Sales Agreement shall govern.

ARTICLE 15

LIABILITY AND ALLOCATION OF RISK

15.1 Recognition of Allocation of Risk of Loss to Owners

The parties acknowledge and agree that the amounts payable to CP&L for its performance as operator under this Agreement have been determined on the basis of the assumption by the Owners of all risk of claims by, or uninsured loss or damage to, the other Owner, or to third parties arising out of, connected with, occasioned by, or resulting from this Agreement or any activities hereunder, except as otherwise specifically provided in Sections 3.3, 4.2, 4.3, 4.4, this Section 15.1 and Section 15.2. Such claims, loss or damage may be substantial. In this connection CP&L agrees to bear its share of the risk of claims, uninsured loss or damage arising out of, connected with, occasioned by, or resulting from this Agreement, in its role as Owner. It is the intention of the parties that, except with respect to the limited liability of CP&L as specifically provided for in this Section 15.1 and Section 15.2, and the liability provided for in Sections 3.3, 4.2, 4.3 and 4.4, the expense of such claims, including the cost of defense, the cost of insurance against such claims and any and all such uninsured loss or damage be borne by the Owners as a cost of operation and maintenance.

Suc! ‹pense shall be allocated between and borne by the Owners of the Un.t or plant giving rise to the expense in the same manner as the cost of operation and maintenance of such Unit or plant is shared by the Owners.

15.2 Liability of CP&L for Certain Loss or Damage

Except as otherwise provided in Sections 3.3, 4.2, 4.3 and 4.4, CP&L's sole liability as operator to the Owners with respect to all claims of any kind, whether based upon contract, tort (including negligence), or otherwise, for any loss or damage connected with, arising out of, occasioned by or resulting from this Agreement or the performance or the breach thereof shall be to pay the uninsured costs of restoring, repairing or replacing any property of the Owners damaged or made inoperable as the result of the failure of CP&L to use reasonable efforts, in accordance with CP&L Operating Practice, to carry out its express undertakings under this Agreement, but only to the extent that such uninsured cost in any single occurrence exceeds $50,000; provided, however, that in no event shall CP&L required to expend for the restoration, repair or replacement of ll property so damaged or made inoperable within one (1) calendar ar an aggregate amount in excess of thirty percent (30%) of the fe prescribed in Section 7.11(A)(1) paid for that calendar year by Power Agency; and provided further, however, that in no event shall CP&L be liable for the payment of the cost of any such restoration, repair or replacement unless demand for such

payment is made by Power Agency in writing and is received by CP&L within one (1) year from the date that occurrence of such damage becomes known to Power Agency.

Notwithstanding the foregoing paragraph, the Owners specifically agree that they shall bear as Owners and in proportion to their ownership interests any and all losses, damages or costs arising out of errors, omissions and failures by CP&L non-supervisory personnel.

15.3 Indirect or Consequential Damages

In no event shall either Owner be liable to the other Owner for any indirect, special, incidental or consequential damages with respect to any claim, whether based upon contract, tort (including negligence), patent, trademark or servicemark, or otherwise, including, but not limited to, any claims for loss of profits or revenues, loss of use of all or any portion of the Brunswick, Harris, or Mayo Plants, Roxboro Unit No. 4 or the Roxboro Common Support Facilities, cost of capital, cost of purchased or replacement power or claims of customers of the Owners for service interruptions, or claims of customers of the Participants for service interruptions.

15.4 Indemnification

Except for the liability of the Owners as provided in Section 15.1, and except with respect to the limited liability of CP&L as operator as provided in Section 15.2, and except as otherwise expressly provided in this Agreement, (a) the Owners

hereby assume all liability with respect to the ownership of, operation and maintenance of, construction of capital additions to and provision of Fuel Management Services for the Joint Facilities in proportion to their ownership interests in the Joint Facilities, and (b) the Owners agree to indemnify and save harmless each other and their respective agents, servants and employees from and against all liability, losses, claims, damages, expenses (including attorneys' fees) in excess of their proportionate shares, as defined in this paragraph. Such indemnification shall apply whether the claims involved be based upon contract, tort (including the Owner's alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation under this Agreement on the part of the Owners, their respective agents, servants or employees or otherwise. The provisions of this Section 15.4 shall include any claims based on alleged damage to the business of any claimant.

Such indemnification shall hold harmless the Owners and their respective agents, servants and employees, in the manner indicated above, in performing their obligations under this Agreement from and against any and all liability and any and all losses, damages, injuries, costs and expenses, including expenses incurred by an Owner who is sued, its agents, servants and employees, in connection with investigating any

claim or defending any action, and including reasonable attorneys' fees incurred or suffered by the Owner sued, its agents, servants or employees, by reason of the assertion of any such claim against the Owner sued, its agents, servants or employees. The Owners may assume on behalf of the Owner sued, its agents, servants and employees, at their option after written notification to the Owner sued, the defense of any action at law or in equity which may be brought against the Owner sued, its agents, servants or employees, upon any such claim. The Owners, regardless of whether they assume the defense of any action or the Owner sued defends such action, shall pay on behalf of the Owner sued, its agents, servants and employees, the amount of any judgment that may be entered against the Owner sued, its agents, servants or employees, in any such action. The indemnification provided for in this Section 15.4, however, does not extend to conduct of either party or its respective agents, servants or employees adjudged to have caused the damage or injury by reason of willful or wanton misconduct or reckless action. The Owners agree that the obligations assumed by them in this Section 15.4 shall be paid by them as a cost of operation and maintenance of, cost of construction of capital additions to, or cost of provision of Fuel Management Services for the Joint Facilities. Such expense shall be allocated between and borne by the Owners of

the Joint Facility giving rise to the expense in the same manner as the cost of operation and maintenance of, cost of construction of capital additions to, or cost of provision of Fuel Management Services for such facility is shared by the Owners.

ARTICLE 16

RESOLUTION OF DISPUTES

16.1 Arbitration

(A) Except as otherwise set forth in this Agreement, all matters under this Agreement are subject to challenge by either party. Except as provided in Section 16.1(B), any unresolved dispute arising out of or relating to matters set forth in this Agreement shall be settled by arbitration in accordance with the procedures set forth in this Article 16, and judgment upon the award rendered by the Arbitrator may be entered in the Superior Court for Wake County of the State of North Carolina or in any other state or federal court having jurisdiction thereof. In addition, disputes relating to the arbitration provisions of this Agreement including, without limitation, disputes as to the applicability of such provisions to a particular dispute, shall be submitted for arbitration.

(B) Any dispute arising out of or relating to Section 4.2 or Article 15 or Article 17 shall not be submitted to or determined by arbitration unless the parties agree to do so in writing.

16.2 Arbitration Procedure

(A) Applicability of Provisions -- Arbitration of disputes subject to arbitration hereunder shall be conducted in accordance with the procedures set forth in this Section 16.2.

(B) Initiation of Arbitration and Selection of Arbitrator -- Arbitration hereunder shall be initiated and the Arbitrator selected in the following manner:

(1) The initiating party (the "Initiating Party") shall give written notice (the "Notice") to the other party (the "Other Party") of its intention to arbitrate, which Notice shall set forth the nature of the dispute, the Initiating Party's estimate of the amount involved, if any, and the remedy sought. With the Notice, the Initiating Party shall submit to the Other Party in writing the names of three persons acceptable to the Initiating Party as arbitrators, the fee arrangements required by each such person, and a statement that such persons have agreed to serve if requested.

(2) Within ten (10) days of its receipt of the Notice and related information, the Other Party may, if it so desires, serve on the Initiating Party an answering statement (the "Answering Statement") with respect to the matters set forth in the Notice and shall notify the Initiating Party in writing either of its acceptance of one of the proposed arbitrators or of its rejection of all such arbitrators. In the event the Other Party notifies the Initiating Party of its acceptance of one of the proposed arbitrators, such proposed arbitrator shall thereupon become the Arbitrator.

(3) In the event the Other Party does not accept one of the proposed arbitrators submitted by the Initiating Party as provided above and the parties are otherwise unable to agree on an Arbitrator within twenty (20) days of the receipt of the Notice by the Other Party, the Arbitrator shall be selected from among the persons on the relevant Approved Arbitrators List as hereinafter defined, in the following manner:

(a) The Initiating Party shall give five (5) days written notice of its demand that an Arbitrator be selected from the relevant Approved Arbitrators List, which notice shall set a day, within fourteen (14) days of the date of such notice, time and place for a meeting of representatives of the parties to make such selection. At such meeting, which shall be held at a location in Raleigh, North Carolina (or at such other place as the parties may designate), the parties shall strike names from the relevant Approved Arbitrators List alternately, with the Other Party striking first, until a single person's name remains on such list, which person shall thereupon become the Arbitrator. In the event such person is unable to serve as Arbitrator, the process shall be repeated one additional time with the remaining names on the relevant Approved Arbitrators List.

(b) There shall be separate Approved Arbitrators Lists for the following fields, each consisting of the names of not less than three (3) nor more than eleven (11) persons qualified in the field listed: (1) Nuclear fueled electric generating plant operations and capital additions; (2) fossil-fired electric generating plant operations and capital additions; (3) nuclear fuel procurement and management; and (4) fossil fuel procurement and management. On the First Closing Date, the parties shall mutually agree as to the names on all four Approved Arbitrators Lists. Each name on each list shall require mutual confirmation of approval by the parties during the month of January each year thereafter. No person approved or confirmed for inclusion on any such list shall be removed except (i) upon such person's demise or incapacitation, (ii) upon such person's request, (iii) upon such person's failure to receive such annual mutual confirmation of approval, (iv) upon such person's being employed or compensated by a party other than for services as an arbitrator, or (v) upon the mutual consent of the parties. Upon any such removal, a person mutually acceptable to the parties shall be named as a replacement. It is the intention of the parties that each Approved Arbitrators List shall consist of as many persons,

up to eleven, as are qualified. Accordingly, at any time any list contains less than eleven persons, each party shall continue to seek additional qualified persons acceptable to the other party for inclusion in the list.

(c) Only the Approved Arbitrators List consisting of persons qualified in the field of nuclear-fueled electric generating plant operations and capital additions shall be used for selection of an Arbitrator with respect to any dispute relating to operations, maintenance, modifications or additions, or decommissioning of a Brunswick Unit or a Harris Unit; only the Approved Arbitrators List consisting of persons qualified in the field of fossil-fired electric generating plant operations and capital additions shall be used for selection of an Arbitrator with respect to any dispute relating to operations, maintenance, modifications or additions, or retirement from service of a Mayo Unit or Roxboro Unit No. 4; only the Approved Arbitrators List consisting of persons qualified in the field of nuclear fuel procurement and management shall be used for selection of an Arbitrator with respect to any dispute relating to the procurement of Nuclear Fuel Material, Nuclear Fuel Services, or Nuclear Fuel Management Services in connection with Reload Fuel; and only the Approved Arbitrators List

consisting of persons qualified in the field of fossil fuel procurement and management shall be used for selection of an Arbitrator with respect to any dispute relating to the procurement of Fossil Fuel Material, Fossil Fuel Services or Fossil Fuel Management Services in connection with Roxboro Unit No. 4 or the Mayo Plant. In any case where either party indicates that the dispute relates both to operations, maintenance, or additions and to the procurement of Nuclear or Fossil Fuel Material, Nuclear or Fossil Fuel Services, or Fuel Management Services, with respect to either a nuclear-fueled or a fossil-fired Unit, each party shall select an Arbitrator from either of the two relevant Approved Arbitrators Lists and the two so selected shall select a third Arbitrator from either of the two relevant Approved Arbitrators Lists.

(4) In the event the selection procedure provided for herein does not result in the selection of an Arbitrator within the time periods allotted, or in the event a designated Arbitrator fails to serve or fails to complete his service, then either party may petition the Senior Resident Judge of the Superior Court of Wake County of the State of North Carolina for the appointment of an Arbitrator, or a

substitute Arbitrator, and such Arbitrator may be, but need not be, selected from the current Approved Arbitrators List.

(5) Upon the selection of an Arbitrator, the Initiating Party shall immediately notify the proposed Arbitrator of his selection by the parties to become Arbitrator of the dispute and immediately provide such Arbitrator with a copy of the Notice, the Answering Statement, if any, and a copy of this Agreement and the Related Agreements. Copies of this selection notice and all correspondence and other documents relating to the arbitration between either party and the Arbitrator shall be sent to the other party to this Agreement.

(C) <u>In' .ation and Completion of Hearings</u> -- The Arbitrator shall initiate the hearings as promptly and expeditiously as possible after his selection (and both parties shall cooperate to this end), and shall conclude the hearings within thirty (30) days of their commencement unless the Arbitrator expressly finds that additional time is necessary for completion of the hearings for reasons in the best interest of the parties and directed toward the development of an adequate record. The Arbitrator shall expressly designate the number of days by which the hearings shall be extended. Such extension shall be limited to the minimum amount of time which, in the Arbitrator's judgment, is necessary to conclude the hearings.

(D) <u>Time and Finality of Award</u> -- The award of the Arbitrator shall be made no later than thirty (30) days from

the date of the closing of hearings, and such award and any judgment thereon, entered pursuant to Section 16.1, shall be conclusive, final and binding except as specifically provided in Sections 16.2(G) and 16.2(H).

(E) Location -- Unless the Initiating Party and Other Party otherwise agree in writing, arbitration under this Agreement shall be conducted in Raleigh, North Carolina.

(F) Applicable Rules -- Arbitration under this Agreement shall be governed by the provisions of the General Statutes of North Carolina relating to arbitration, as the same are in effect at the time the Notice is given by the Initiating Party, provided that any specific provision hereof that conflicts therewith shall govern.

(G) Vacation of Arbitration Award -- Upon application of either party to the Arbitration, an Arbitrator's award shall be vacated by a court where:

(1) The award was procured by corruption, fraud or other undue means;

(2) there was evident partiality by an Arbitrator or corruption of an Arbitrator or misconduct prejudicing the rights of either party;

(3) the Arbitrator exceeded his powers; or

(4) the Arbitrator refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear

evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Chapter 1, Article 45A of the General Statutes of North Carolina, as to prejudice substantially the rights of either party.

(H) Trial De Novo -- When the prevailing party to an arbitration applies to the court for enforcement of the arbitration award and the court determines that one or more of the following elements is present in such award, the non-prevailing party shall have the right to a trial de novo in a court of competent jurisdiction: (1) Where such award for any one proceeding exceeds five million dollars ($5,000,000) against such non-prevailing party; or (2) where such award requires the performance by the non-prevailing party of any act which (a) is not lawful, (b) is contrary to the provisions of the non-prevailing party's security instruments, (c) violates the conditions of any governmental or regulatory approval required herein or jeopardizes the obtaining, retaining, transferring or amending of such governmental or regulatory approvals, (d) has the effect of interrupting, suspending or terminating operation of the Joint Facilities or any major portions thereof for a period of at least ninety (90) days contrary to the provisions of this Agreement or (e) has the effect of creating an Event of Default for the non-prevailing party under the terms of this Agreement.

16.3 Court Proceedings

Any dispute arising under Section 4.2 or Articles 15 or 17 shall (unless the party affected agrees otherwise) be resolved by a court of competent jurisdiction in accordance with the law of North Carolina.

16.4 Payment of Fees and Costs

(A) Where no money damages are claimed by the party initiating the arbitration or court proceedings, the payment of the Arbitrator's fee and the cost of the arbitration or court proceedings, not including attorneys' fees, shall be borne by the party the Arbitrator or the court rules against unless the Arbitrator or the court directs otherwise, in which event the Arbitrator's or the court's allocation of said fee and costs shall be binding.

(B) Where money damages are claimed by the party initiating the arbitration or court proceedings or where a party seeks to vacate an arbitration award, such party shall pay to the defending party a portion of the defense costs, including investigations, engineering fees, attorneys' fees, expert witnesses' fees, and any other expenses of defense actually incurred in regard to the particular arbitration or court proceeding in question. Such portion of the defense costs payable shall bear the same relation to the total defense costs as the dollar amount of the claims of the party initiating the proceeding which were not sustained by the Arbitrator or the court

bears to the total dollar amount of such party's claims. Such determination shall be made only after the entry of a decision or order no longer subject to appeal. Payment of any defense costs to the defending party shall be made by the party initiating the arbitration or court proceeding within thirty (30) days after the defending party to be paid furnishes such initiating party with an itemized and verified listing of the defense costs actually incurred.

ARTICLE 17

ASSIGNMENT

Except as otherwise provided in this Article, in Article 16 of the Sales Agreement or in Section 25.19 of this Agreement, no sale, lease, conveyance, transfer, alienation or assignment of this Agreement, or the rights or obligations of either party hereunder, shall be made without the prior written approval of the other party; provided, however, that such approval shall not be unreasonably withheld. Notwithstanding the foregoing, (a) CP&L may transfer its rights and obligations pursuant to this Agreement to any affiliate or subsidiary company without such approval, and (b) either party voluntarily or involuntarily transferring its ownership interest, or a portion thereof, in the Joint Facilities in accordance with the Sales Agreement or otherwise, may, pursuant to and in accordance with the Sales Agreement, transfer its rights and obligations hereunder to its transferee. Any successor or assignee shall be subject to all the terms and conditions of this Agreement and, as specifically referred to herein, the Related Agreements, to the same extent, as though such successor or assignee were an original party hereto.

No sale, lease, conveyance, transfer, alienation or assignment of rights or obligations under this Agreement, whether to the other Owner or a third party, shall relieve the

tr[illegible]feror or assignor from full liability and financial responsibility for performance after any such transfer, lease or assignment of:

(1) any obligation or duty incurred by the transferor, lessor or assignor prior to such transfer under the terms and conditions of this Agreement or any Related Agreement; or

(2) any obligation or duty provided and imposed after such transfer upon such transferor, lessor or assignor under the terms and conditions of this Agreement or any Related Agreement,

unless and until the transferee, lessee or assignee shall agree in writing to assume such obligations and duties and the other Owner has consented in writing to such assumption, which consent shall not be unreasonably withheld.

ARTICLE 18

EFFECTIVE DATE

This Agreement shall become effective on the First Closing Date.

ARTICLE 19

REPRESENTATIONS, WARRANTIES AND COVENANTS

19.1 Power Agency's Representations, Warranties and Covenants

Power Agency hereby represents, warrants and covenants to CP&L as follows:

(A) Power Agency is a body corporate and politic and an instrumentality of the State of North Carolina, duly organized, validly existing and in good standing under the law of the State of North Carolina having corporate power and authority to perform all its obligations under this Agreement and the Related Agreements and the requisite power and authority to conduct its operations as they are now conducted, including, without limitation, the implementation of this Agreement and the Related Agreements. Power Agency shall take no action, including, without limitation, amendment to its charter or By-Laws, the effect of which would change its status as a body corporate and politic and an instrumentality of the State of North Carolina, or which would adversely affect its corporate power and authority to perform all its obligations under this Agreement and the Related Agreements, or its corporate power and authority to conduct its operations, including, without limitation, the implementation of this Agreement and the Related Agreements. Power Agency has furnished true and attested copies of its Certificate of Incorporation and By-Laws to CP&L with all amendments to date.

(B) Exhibit SA-VII of the Sales Agreement prescribes the form of Project Power Sales Agreement which Power Agency will enter into with each of its Participants for the supply by Power Agency of capacity and energy to each such Participant, which agreements, in the aggregate, shall be designed to provide Power Agency with funds sufficient to meet its obligations under this Agreement, under the applicable provisions of the Power Coordination Agreement, and under the bonds or other securities or evidence of indebtedness referred to in Section 9.3 of the Sales Agreement. In the event Power Agency shall enter into a similar Project Power Sales Agreement with any other Municipal System (as defined in Section 1.40 of the Sales Agreement), whether before or after the First Closing Date, as provided in the Sales Agreement, Power Agency shall forthwith, upon execution of said agreement by both parties, notify CP&L thereof and furnish CP&L with a copy of such agreement together with a covenant not to sue, indemnification and release, as prescribed in Exhibit SA-XI to the Sales Agreement, executed by such Municipal System. Power Agency covenants and agrees that it shall fix charge and take all steps necessary to collect rents, rates, fees and charges for the sale of electric power and energy and other facilities and commodities sold, furnished or supplied to its Participants at a level sufficient to provide Power Agency with revenues adequate to meet its obligations under this Agreement and the Related Agreements, and under the bonds or other securities

or evidences of indebtedness referred to in Section 9.3 of the Sales Agreement, and to pay any and all other amounts payable from or constituting a charge or lien upon such revenues. To the extent that revenues received by Power Agency under such Project Power Sales Agreements are insufficient to cover all of its obligations, Power Agency shall first apply such revenues to its operation and maintenance expense for the Project (as defined in the Project Power Sales Agreement), including the payments for operation and maintenance and fuel owed to CP&L under this Agreement pursuant to Sections 9.1, 9.2 and the amounts due under Section 9.4(A). Before the remaining revenues are applied to obligations of Power Agency, other than obligations to holders of bonds, notes or other evidences of indebtedness of Power Agency and other than obligations under Power Agency's resolutions, indentures or other instruments securing such bonds, notes or other evidences of indebtedness to make payments into funds created thereunder, any remaining revenues shall be applied to payments due pursuant to Section 9.3 and next to amounts due under Section 9.4(B).

Each Project Power Sales Agreement shall provide that (1) the signatory Participant shall fix, charge and collect rents, rates, fees and charges for the sale of electric power and energy and other services, facilities and commodities sold, furnished or supplied through its electric system at a level sufficient to provide revenues adequate to meet its obligations under such

Project Power Sales Agreement and to pay any and all other amounts payable from or constituting a charge or lien upon such revenues; (2) the signatory Participant shall take no action the effect of which would be to prevent, hinder or delay Power Agency from the timely fulfillment of its obligations under such agreement, this Agreement, the Related Agreements, and the bonds, other securities or evidences of indebtedness referred to in Section 9.3 of the Sales Agreement; (3) Power Agency shall have the right to terminate such agreement as to the defaulting Participant in accordance with Section 20.2(B); and (4) upon failure of the Participant to make any payment in full when due under the Project Power Sales Agreement or to perform any other obligation in such agreements, Power Agency shall make demand upon the Participant for payment or performance and if said failure is not cured within fifteen (15) days from the date of such demand, it shall constitute a default at the expiration of such period and notice of such event of default shall be given to the Participant. Each such agreement shall further provide that it shall not be amended or rescinded with respect to the provisions specified in clauses (1) through (4) of this Section 19.1(B) without the prior written consent of CP&L.

(C) Except as provided in the Project Power Sales Agreements or Section 20.2(B), Power Agency shall continue each of such agreements in full force and effect and shall enforce

all such agreements in accordance with their terms, as amended from time to time. The parties agree and acknowledge that the violation of the obligations of Power Agency under this Section 19.1(C) would cause irreparable injury to CP&L and that the remedy at law for any violations or threatened violations thereof would be inadequate, and agree that if an "Event of Default" by Power Agency as defined in this Agreement or the Related Agreements shall have occurred and shall not have been fully cured, CP&L need not prove the inadequacy of legal remedies in order to become entitled to a temporary or permanent injunction or other equitable relief specifically to enforce such obligation.

(D) Each Project Power Sales Agreement and each Supplemental Power Sales Agreement (as described in Section 26.1(A) of the Power Coordination Agreement) shall provide that the charges which Power Agency makes to each Participant thereunder shall be separately identified on the monthly billings to the Participant and that the revenues received in any month from a Participant making less than full payment of such billings shall be applied pro rata to the separate charges under each agreement in the ratio that each separate charge bears to the total monthly bill rendered.

(E) The charges which Power Agency makes to each Participant pursuant to its Project Power Sales Agreement as described in the Sales Agreement and its Supplemental Power

Sales Agreement as described in Section 26.1(A) of the Power Coordination Agreement shall be separately identified on the monthly billings to each Participant and the revenues actually received in any month from a Participant making less than full payment of such billings shall be applied pro rata to the separate charges in the ratio that each separate charge bears to the total monthly bill rendered; the resulting amounts shall be credited to the appropriate accounts on the books of Power Agency and shall be applied solely to the separate obligations of Power Agency which were the basis for the separate charges on the billings.

(F) Power Agency shall not create any lien in favor of any third party in any of the revenues it receives from Participants under the Project Power Sales Agreements which is superior in right of payment to the right of CP&L to receive payments for costs of operation and maintenance and fuel pursuant to Sections 9.1 and 9.2 and the amounts payable under Section 9.4(A). With respect to CP&L's right to receive payment pursuant to Sections 9.3 and 9.4(B), Power Agency shall not create liens or obligations superior in right of payment to that of CP&L other than liens in favor of any holder of any bond, note or other evidence of indebtedness of Power Agency or other than obligations to make payments into funds created by Power Agency's resolutions, indentures or other instruments securing such bonds, notes or other evidences of indebtedness.

(G) Power Agency shall immediately notify CP&L of any default under or breach of any Project Power Sales Agreement into which it has entered with any Participant, specifying the nature of such breach, the party so breaching and any action taken or proposed to be taken with respect thereto.

(H) The execution and delivery of this Agreement and the Related Agreements by Power Agency have been duly and effectively authorized by all requisite action by Power Agency and the provisions thereof comply with the General Statutes of North Carolina and do not violate any provision thereof.

(I) The execution and delivery of the covenant not to sue, indemnification and release, substantially in the form prescribed in Exhibit SA-XI of the Sales Agreement, by Power Agency and each Participant have been duly and effectively authorized by all requisite action.

19.2 General Covenant by the Parties

(A) Each party covenants and agrees that if any event shall occur or condition exist which constitutes, or which after notice, lapse of time, or both, would constitute an Event of Default on its part pursuant to Section 20.1, it shall immediately notify the other party thereof, specifying the nature thereof and any action taken or proposed to be taken with respect thereto.

(B) Power Agency covenants and agrees that it shall promptly furnish CP&L a copy of any notification to a Participant of an "event of default" by such Participant under the provisions of a Project Power Sales Agreement.

ARTICLE 20

DEFAULT

20.1 Events of Default

The following shall be "Events of Default" under this Agreement:

(A) Failure by either Owner to make any payment to the other Owner (including without limitation payments to CP&L acting as operator) required under this Agreement within sixty (60) days after the date on which such payment becomes due, or failure by CP&L to give any credit to Power Agency required under this Agreement for a period of sixty (60) days after the date on which such credit becomes due; provided, however, that neither party shall be in default if the amount it owes hereunder to the other party can be offset in whole, within sixty (60) days after the date on which such amount became due and payable, by sums owed to it by such other party under the Power Coordination Agreement.

(B) Willful failure by CP&L to perform its obligations with respect to operation and maintenance of the Joint Facilities or any portion thereof, for a period of ninety (90) days.

(C)(1) The insolvency, bankruptcy, or equivalent thereof, of Power Agency or CP&L or either party's inability or admission in writing of its inability to pay its debts as they mature, or the making of a general assignment for the benefit of,

or entry into any composition or arrangement with, its creditors; or

(2) Either party's application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee, or liquidator for such party, or for all or substantially all of such party's assets, or either party's authorization of or consent to such application or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of one hundred eighty (180) days; or

(3) The authorization or filing by Power Agency or CP&L of a voluntary petition in bankruptcy or application for, or consent (by admission of material allegations of a petition or otherwise) to, the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation, or other similar law of any jurisdiction, or the institution of such proceedings against Power Agency or against CP&L without such authorization, application, or consent, which proceedings remain undismissed or unstayed for ninety (90) days, or which result in an adjudication of bankruptcy or insolvency within such time.

(D) Failure by an Owner, under Section 2.3(L) to enter into an agreement relating to the costs of a capital addition or its failure to make payments under the terms thereof.

20.2 CP&L's Rights on Default of Power Agency

Whenever any Event of Default by Power Agency referred to in Section 20.1 shall have occurred and shall not have been fully cured, CP&L shall have the following rights:

(A) CP&L shall have the right to reduce the amounts in the Working Capital Fund and the Capital Additions Advance Fund attributable to Power Agency by the amounts required to cure the default.

(B) If a Participant defaults under a Project Power Sales Agreement, (1) Power Agency may terminate service under its Project Power Sales Agreement with the defaulting Participant or (2) if such default by a Participant causes Power Agency to be in default under this Agreement for a period of one (1) year, CP&L shall have the right to demand that Power Agency terminate service under its Project Power Sales Agreement with the defaulting Participant. In such event, Power Agency shall forthwith notify the Participant of such termination. In the event a Project Power Sales Agreement is terminated pursuant to this Section 20.2(B), CP&L agrees to serve the defaulting Participant if requested to do so by such Participant; but if such Participant is not directly served from the CP&L Transmission System, it shall be the responsibility of such Participant to make arrangements for the delivery of electric service supplied by CP&L. Such service shall be at CP&L's wholesale rate in

effect at the time of the termination if there is such a rate then on file with the appropriate regulatory agency which is applicable by its terms to the defaulting Participant or, if there is no such rate on file, at the all-requirements rate being charged the Participant by Power Agency immediately prior to the termination of the Project Power Sales Agreement. CP&L may at any time and from time to time thereafter, if it so elects, file and place into effect pursuant to Section 205 of the Federal Power Act any superseding rate, charge, fee or any other term or condition for service to such Participant.

(C) If an Event of Default of Power Agency shall have continued for a period of at least one (1) year, CP&L may exercise any or all of the following rights:

(1) With regard to the Joint Facility affected by the Event of Default,

(a) to terminate this Agreement;

(b) to terminate its responsibility for the Fuel Procurement Function for the Joint Facility affected; and/or

(c) to terminate its responsibility for the operation and maintenance function for the Joint Facility affected. In the event CP&L elects not to continue operating such Joint Facility, CP&L shall have the right, subject to any regulatory or governmental restrictions, to abandon that portion of the Joint Facility affected which it is no longer operating.

(2) With regard to all of the Joint Facilities, to terminate this Agreement upon one (1) year's written notice. During the one (1) year period between such notice and the termination date, CP&L and Power Agency shall undertake good faith negotiations for a new operating and fuel agreement to replace this Agreement following its termination.

20.3 Power Agency's Rights on Default of CP&L

(A) Whenever any Event of Default of CP&L referred to in Section 20.1(A) or 20.1(C) shall have occurred and shall not have been fully cured, Power Agency shall have the right to sell the Purchased Capacity and Purchased Energy which CP&L otherwise would purchase pursuant to Article 9 of the Power Coordination Agreement to another entity. If Power Agency elects to make such a sale, it shall give CP&L at least thirty (30) days notice thereof and shall make diligent efforts to obtain the best price available. Such sale shall be for the account of CP&L and shall terminate when CP&L shall have fully cured the default.

If the amount paid by the other entity for such capacity and energy is less than the amount which CP&L would have paid to Power Agency therefor, CP&L shall pay the difference to Power Agency upon being notified thereof by Power Agency. Said payment shall be made in accordance with Article 16 of the Power Coordination Agreement.

(B) Whenever the Event of Default of CP&L referred to in Section 20.1(B) shall have continued for a period of at

least one (1) year, Power Agency may exercise any or all of the following rights:

(1) With regard to the Joint Facility affected by the Event of Default,

(a) to terminate this Agreement;

(b) to terminate any portion of CP&L's responsibilities under this Agreement with respect to operation and maintenance, or procurement of Nuclear or Fossil Fuel Material, Nuclear or Fossil Fuel Services or Fuel Management Services for the Joint Facilities;

(c) to continue to operate the Joint Facilities affected by the Event of Default with its own forces or with a substitute entity of its choosing to act as operator. In such case, CP&L shall not object to Power Agency's succeeding to the rights of CP&L under such portions of all contracts with suppliers, contractors, and subcontractors; provided, however, that if Power Agency so elects to operate the Joint Facility affected, as set forth in this Section 20.3(B), CP&L shall have the right to continue to dispatch the Output of such Joint Facility in accordance with Article 3 of the Power Coordination Agreement.

(2) With regard to all of the Joint Facilities, to terminate this Agreement upon one (1) year's written notice. During the one (1) year period between such notice and the termination date, Power Agency and CP&L shall undertake good faith negotiations for a new operating and fuel agreement to replace

this Agreement following its termination.

20.4 Disputes Concerning Default

In the event that either Owner or CP&L as operator shall dispute an asserted default by it, then such party shall pay the disputed payment or perform the disputed obligation, but may do so under protest. The protest shall be in writing, shall precede or accompany the disputed payment or performance of the disputed obligation, and shall specify the reasons upon which the protest is based. In the event it is determined that the protesting party is entitled to a refund of all or any portion of a disputed payment or payments, or is entitled to reimbursement of the cost of performing a disputed obligation theretofore made or performed, then the protesting party shall be reimbursed such amount with simple interest calculated at the Compensatory Interest Rate.

20.5 Additional Obligations

(A) With respect to either party as to which an Event of Default has occurred, such party shall make all reasonable efforts to take any and all such further actions and shall execute, and file where appropriate, any and all such further legal documents and papers as may be reasonable under the circumstances in order to facilitate the carrying out of this Agreement or otherwise effectuate its purposes including, but not limited to, action to seek any required governmental or

regulatory approval and to obtain any other required consent, release, amendment, or other similar legal documents.

(B) The parties agree not to take any action, or otherwise consent to any agreement or amendments to any agreement, which would prohibit, or the purpose of which is to make illegal or to prevent, hinder or delay, the taking of any action contemplated by this Agreement in the event of a default.

20.6 Injunctive Relief

The parties agree and acknowledge that the failure to perform any of their obligations under this Agreement, including the execution of legal documents which may be reasonably requested as set forth in this Article 20, would cause irreparable injury to the other party and that the remedy at law for any violations or threatened violations thereof would be inadequate, and agree that the other party shall be entitled to a temporary or permanent injunction or other equitable relief specifically to enforce such obligation without the necessity of proving the inadequacy of its legal remedies.

20.7 No Remedy Exclusive

No remedy conferred upon or reserved to the parties in this Article 20 is intended to be exclusive of any other remedy or remedies available hereunder or now or hereafter existing at law, in equity, by statute or otherwise, but each

and every such remedy shall be cumulative and shall be in addition to every other such remedy. The pursuit by either party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or by law, equity, statute or otherwise.

20.8 Waivers

No waiver of any default or Event of Default hereunder shall extend to or affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon. No delay or omission to exercise any remedy available upon any Event of Default shall impair either party's right to exercise such remedy or shall be construed to be a waiver thereof, but any such remedy may be exercised from time to time and as often as may be deemed expedient. In order to entitle each party to exercise any remedy conferred upon or reserved to it in this Article 20, it shall not be necessary to give any notice, other than such notice as may be expressly required by this Agreement.

20.9 Agreement to Pay All Costs to Cure Default

(A) Simple interest shall accrue on any amount in default at the Incentive Interest Rate.

(B) If any Event of Default should occur and a party not in default should employ attorneys or incur other expenses for the collection of any payment or the enforcement of performance or observance of any condition or obligation on the part of a defaulting party, or for the exercise of any other remedy

hereunder, the defaulting party agrees that it shall on demand therefor reimburse the other party for its reasonable expenses for such attorneys and such other expenses so incurred. No default shall be deemed cured until all costs payable under this Article 20, including any attorneys' fees incurred by the party not in default, and payments pursuant to this Agreement shall have been paid or reimbursed.

(C) If CP&L exercises its option not to operate any of the Joint Facilities pursuant to Section 20.2(C), Power Agency agrees that it shall be liable for payment of any costs incurred by CP&L as a result of cancellation of contracts or orders for equipment, materials and services relating to that Joint Facility.

20.10 Regulatory Approvals

Power Agency agrees to obtain all regulatory approvals required and take all other necessary steps in order to relieve CP&L of all responsibility for the operation of the Joint Facility affected by the Event of Default in the event CP&L's operation and maintenance function is terminated pursuant to Section 20.2(C). All such steps shall have been taken and such approvals shall be obtained and be in effect as of the effective date of termination. In the event any necessary step, for any reason, has not been or cannot be taken, or in the event any required approval, for any reason, has not been or cannot be obtained by the effective date

of termination, CP&L shall have the right to cease operating the Joint Facility affected, and Power Agency shall hold CP&L free and harmless from any cost, expense, damage or loss resulting from CP&L's decision to cease operations.

20.11 Notice and Opportunity to Cure as Conditions Precedent to Invoking Remedies

In the event either party wishes to invoke the remedies provided for in Sections 20.2 and 20.3, it must give written notice to the other party that an Event of Default has occurred, specifying the Event of Default involved, and the other party shall then have thirty (30) days to cure such Event of Default before any remedy may be invoked.

ARTICLE 21

TERM OF AGREEMENT

21.1 General

(A) Unless sooner terminated pursuant to Article 13 or 20, this Agreement shall continue and remain in full force and effect until all costs associated with decommissioning or retiring the Joint Facilities and with back-end services (referred to in Section 1.44(7)) are paid or provision made therefor which is agreed to by the Owners and CP&L as operator. Notwithstanding termination of CP&L's responsibilities hereunder, CP&L shall continue to dispatch each of the Joint Facilities pursuant to the terms of the Power Coordination Agreement in which event the fee provided by Section 7.11(A)(3) shall be paid by Power Agency.

(B) Upon termination of CP&L's responsibilities under this Agreement, CP&L shall retain all books and records relating to the operation, maintenance and fueling of, and capital additions to, the Joint Facilities for such period of time as is then required by any regulatory or governmental authority. Upon the expiration of that time, CP&L shall offer such books and records to the then operator (if any) of the Joint Facilities. In the event the then operator of the Joint Facilities declines to accept any or all of such books and records, CP&L may dispose of any books and records remaining in its custody.

21.2 Return of Working Capital Fund and Capital Additions Advance Fund

(A) Prior to the effective date of any termination of this Agreement, Power Agency shall satisfy all financial obligations due and owing to CP&L. In the event any balance remains outstanding and payable to CP&L under this Agreement or the Power Coordination Agreement (after giving effect to any amounts due and payable to Power Agency from CP&L) upon the effective date of termination, CP&L shall be entitled to reimbursement therefor from the Working Capital Fund or from the Capital Additions Advance Fund. If such funds are inadequate to meet Power Agency's financial obligation to CP&L, any balance remaining payable to CP&L shall be paid to CP&L forthwith. Any excess remaining in such funds shall be returned to Power Agency, including accrued interest as set forth in Section 8.5.

(B) Any balance remaining in the Working Capital Fund or the Capital Additions Advance Fund shall be paid no later than six (6) months from the effective date of termination.

(C) Notwithstanding any of the foregoing, CP&L shall not be obligated to return any portion of the Working Capital Fund or the Capital Additions Advance Fund to Power Agency as long as any regulatory or governmental authority imposes any duty on CP&L with regard to this Agreement, the Joint Facilities or any part thereof, except in CP&L's capacity as an Owner.

21.3 Costs of Termination

CP&L shall submit a monthly statement to Power Agency covering the costs of termination, and payment therefor shall be due and payable as of the date of such statement. Any such costs payable by Power Agency shall be considered operation and maintenance costs in accordance with Section 9.1. Simple interest shall accrue at the Late Payment Interest Rate on any payment due but not received within fifteen (15) days from the date of the statement. Unless full payment of any amount due hereunder is received within sixty (60) days of the date payable, the party failing to make the payment due shall be in default and the provisions of Article 20 shall apply.

ARTICLE 22

DECOMMISSIONING OR RETIREMENT

22.1 General

The Owners may, at any time, agree to decommission or retire one or more of the Joint Facilities, or any Unit thereof. Either Owner may require that the question of whether or not to decommission or retire be submitted to arbitration pursuant to Article 16. If such issue is submitted to arbitration, the Arbitrator shall consider economic and any other relevant factors in making his decision.

22.2 Costs of Decommissioning or Retirement

The Owners shall bear all costs incurred for decommissioning or retirement in proportion to their respective ownership interests in the Joint Facilities for whatever period of time is necessary, whether pursuant to regulatory requirements or otherwise, to complete the decommissioning or retirement process so that no further expenditure of funds is required. Decommissioning or retirement costs shall include, but not be limited to, any costs which must be provided for in advance of decommissioning or retirement, and any costs which are incurred during or after decommissioning or retirement, whether such costs result from regulatory requirements or otherwise. If decommissioning or retirement costs must be provided in advance of decommissioning or retirement, it shall be the responsibility of each Owner to

take appropriate measures to collect such costs and each Owner shall hold the funds so collected by it until there is a request for payment of decommissioning or retirement costs.

22.3 Decommissioning Agreement

After the decision to decommission the Brunswick Plant or the Harris Plant or a Unit thereof has been made, the Owners shall arrange, pursuant to an agreement (the "Decommissioning Agreement") separate from this Agreement, to carry out the decommissioning of one or both of these Plants, or Units, by CP&L or by other qualified engineers and/or contractors. Such agreement shall contain the provisions set forth in Section 22.2. If CP&L is to carry out the decommissioning, the Decommissioning Agreement shall contain the provisions of Article 15 and Section 25.11(C) and the provisions of the Sales Agreement with respect to CP&L acting as project manager and shall contain no provision which is inconsistent with any term of this Agreement or the Sales Agreement with respect to CP&L acting as project manager.

22.4 Repurchase

In the event one or more of the Joint Facilities or Joint Units is decommissioned or retired, CP&L shall have the right of first refusal to purchase any materials, parts, supplies or other facilities therefrom. The proceeds of such sale to CP&L, or of any sale to any other entity, shall be credited to the

Owners in accordance with their respective ownership interests in the affected Joint Facility or Joint Unit.

ARTICLE 23

ACCESS TO BOOKS AND RECORDS

23.1 Access to CP&L's Books and Records

During normal business hours and subject to conditions consistent with the conduct by CP&L of its regular business affairs and responsibilities, CP&L shall provide Power Agency, or its authorized representatives, with access in a timely manner to those of CP&L's books, records and other documents which are in the possession of CP&L or which can be made available by CP&L, and, upon request, copies thereof, which set forth (a) matters including costs and methods of cost allocation applicable to the transactions described in this Agreement to the extent necessary to enable Power Agency to verify the costs for which it is billed pursuant to the provisions of this Agreement; (b) matters relating to the transactions and duties of CP&L described in this Agreement; and (c) matters relating to dealings in regard to this Agreement between CP&L and any regulatory body or governmental agency. Such right of access shall not include any internal audit reports or documents prepared by CP&L's internal audit staff or any books, records or other documents subject to a valid claim of privilege by CP&L. Power Agency shall maintain the confidentiality of any non-public information obtained through such access and shall not disclose any such information except as required by law.

Power Agency shall bear the costs incurred by CP&L as a result of providing the access to information, documentary materials or presentations to which Power Agency is entitled under this Article 23; provided, however, that where the information or documentary materials involved are already available in the form provided to Power Agency, the costs associated with the accumulation and preparation of such information or materials, including the cost of one copy of such documentary materials, shall be deemed a cost of operation and maintenance.

CP&L need not make available to Power Agency any reports or information relating to personnel matters, staffing or labor relations connected with the operation, maintenance and fueling of and capital additions to the Joint Facilities, or any books, records or other documents that are subject to a valid claim of privilege by CP&L. Any payroll information made available to Power Agency shall be provided in a form which protects the identity of individuals.

23.2 Additional Materials to Be Provided to Power Agency

(A) CP&L shall:

(1) Make Power Agency aware of any actual litigation relating to the operation, maintenance or fueling of and capital additions to any Joint Facility known to CP&L if in CP&L's opinion such litigation is likely to result in liability of, or cost to, Power Agency; and

(2) Make Power Agency aware of any claim reported to any insurer of the Joint Facilities and known to CP&L's Manager of Insurance (or any successor entity with equivalent responsibilities) or any uninsured claims exceeding $100,000 known to CP&L's General Counsel (or any successor office with equivalent responsibilities) when such insured or uninsured claims relate to the operation, maintenance or fueling of or capital additions to any Joint Facility.

23.3 Additional Rights of Power Agency

In addition to the rights of access and review described in this Article 23 and in other provisions of this Agreement and the Related Agreements, Power Agency shall have the following rights:

(A) The right to review and audit primary books of account maintained by CP&L; and

(B) The right, upon Power Agency's request, to meet at a mutually agreeable time and place with appropriate personnel of CP&L to review, discuss, clarify or supplement information supplied to Power Agency by CP&L concerning the operation, maintenance or fueling of, or capital additions to the Joint Facilities. The timing and frequency of such meetings shall be subject to reasonable conditions consistent with the conduct of the regular business affairs and responsibilities of CP&L.

23.4 Access to Power Agency's Books and Records

During normal business hours and subject to conditions consistent with the conduct of its regular business affairs and

responsibilities, Power Agency shall provide CP&L, or its other authorized representatives, with access in a timely manner to such books, records and other documents, pertaining to the obligations of Power Agency under this Agreement, which are in the possession of Power Agency or which can be made available by Power Agency. CP&L shall maintain the confidentiality of any non-public information obtained through such access and shall not disclose any such information except as required by law. CP&L shall bear the costs incurred by Power Agency as a result of providing the access to information, documentary materials or presentations to which CP&L is entitled under this Article 23; provided, however, that where the information or documentary materials involved are already available in the form provided to CP&L, the costs associated with the accumulation and preparation of such information or materials, including the cost of one copy of such documentary materials, shall be a cost of operation and maintenance.

Power Agency need not make available to CP&L any reports or information relating to personnel matters, staffing or labor relations relating to Power Agency, its own staff or any other organization performing a staff function for Power Agency on a continuous basis or make available any books, records or other documents that are subject to a valid claim of privilege.

CP&L shall not have a right of access to any internal audit reports or documents prepared by the staff of Power Agency or by any other organization performing a staff function for Power Agency on a continuous basis.

ARTICLE 24

ASSISTANCE BY CP&L IN AGENCY FINANCINGS

24.1 Assistance

CP&L shall provide such assistance as hereafter set forth in this Article 24 as Power Agency may reasonably require in connection with the issuance or sale by Power Agency of any bonds, notes or other evidences of indebtedness, whether public or private (including, without limitation, revolving or other credit facilities) for the purpose of financing capital additions to the Joint Facilities.

24.2 Reports

CP&L agrees that in connection with such issuance or sale, it shall make available to Power Agency, to the managing underwriters of any such issuance or sale and to any other financing entity involved in such issuance or sale (a) appropriate information relating to the Joint Facilities and (b) information relating to such capital additions including, but not limited to, a current architectural and construction engineering report with respect to such capital additions to the Joint Facilities, prepared by CP&L, setting forth the design of such capital additions, a description of such capital additions, the status of engineering, design and construction of such capital additions, the status of any required licenses and permits, an estimate of construction costs and the construction schedule related to such capital additions and an updated

summary of actual or potential litigation, defects in construction, major licensing or other problems and controversies then known to CP&L's management, as defined in Section 12.1(B)(3) of the Sales Agreement, which in their judgment could affect the fueling or operation of the Brunswick Plant or Roxboro Unit No. 4 or the Construction, Initial Fueling or placing into Commercial Operation of the Harris Plant or the Mayo Plant, or any portion thereof, or the construction of capital additions to the Joint Facilities or the rights or obligations of Power Agency arising under this Agreement. When appropriate, the report shall also include a description of CP&L's utility business and a factual outline of its experience in the operation of nuclear-fueled and coal-fired generating facilities. Such report may be used as an exhibit to, or otherwise in support of, any official statement prepared by Power Agency in connection with the issuance or sale by Power Agency of the obligations described in Section 24.1. Such report shall be in such detail as is customary in similar financings by municipal power agencies or comparable entities.

24.3 Senior Personnel

CP&L, at the request of the managing underwriters or any other financing entity involved in the issuance or sale by Power Agency of the obligations described in Section 24.1, shall make available in connection with any such issuance or sale at least one of its senior personnel who is knowledgeable

about the operation of and capital additions to the Joint Facilities to assist Power Agency and its underwriters or any other financing entity involved in such issuance or sale (a) in the preparation of any official statement or report; provided, however, that such assistance and preparation shall be limited to matters relating to the information in the report furnished pursuant to Section 24.2; (b) at the due diligence meetings with the underwriters or their representatives; and (c) at information meetings with potential investors or lenders. Such assistance shall be provided at such times and from time to time, and at such places, as shall be reasonably requested by Power Agency, the managing underwriters or any other financing entity involved in such issuance or sale.

24.4 Certification of Information by CP&L

(A) CP&L shall certify and represent as true, subject to any qualification contained in such certification, any information contained in the report referred to in Section 24.2 supplied by CP&L to Power Agency, to the managing underwriters or to any other financing entity involved in the issuance or sale by Power Agency of any of the obligations described in Section 24.1 in connection with such issuance or sale by Power Agency, and CP&L shall state that the statements in such report which purport to be statements of fact are true and correct in all material respects and such report does not omit to state any material fact necessary to make such report not

misleading in the light of the circumstances under which it was furnished. Such certification and representation shall, upon request of the managing underwriters or any other financing entity involved in such issuance or sale, be embodied in a letter of representation addressed to such managers on behalf of the underwriting syndicate or to such other financing entity.

(B) CP&L shall also, upon request, furnish an opinion of counsel for CP&L, addressed to the managing underwriters or to any other financing entity involved in the issuance or sale by Power Agency of any of the obligations described in Section 24.1, to the same effect as the opinions required by Sections 3.2(C)(1), 3.2(C)(2) and 3.2(C)(3) of the Sales Agreement, and to the further effect that the execution and delivery of the letter of representation referred to in Section 24.4(A) have been duly and effectively authorized by all requisite corporate action.

24.5 Liability and Costs

Any liability which CP&L may have to Power Agency, to members of the underwriting syndicate of any securities or to any other financing entity involved in the issuance or sale by Power Agency of any of the obligations described in Section 24.1, by reason of any misstatement of material facts or omission of material facts by CP&L in the information furnished pursuant to Section 24.2, shall be borne by CP&L, subject to any

rights of contribution to which it may be entitled by law, and shall not be a cost reimbursable by Power Agency under this Agreement. For purposes of the preceding sentence, CP&L's liability shall include the costs of its defense of any lawsuit involving the subject matter of such sentence, whether or not CP&L prevails in such defense, but CP&L shall be held harmless against any and all claims against CP&L including reasonable attorneys' fees resulting from any misleading, improper or erroneous use of such information by Power Agency, the underwriters or any other financing entity. Power Agency shall also bear all other costs of CP&L's performance under this Article 24, excepting, however, any liability resulting from any intentional misstatement by CP&L of a material fact or the intentional omission by CP&L of a material fact necessary in order to make such information provided under this Article 24, in the light of the circumstances under which it was furnished, not misleading.

ARTICLE 25

MISCELLANEOUS

25.1 CP&L's Discharge of Obligations

(A) In performing its functions and obligations under this Agreement, CP&L shall act in accordance with CP&L Operating Practice in a timely manner.

(B) In the performance of its obligations under this Agreement, CP&L shall not engage in a pattern of adverse distinction against, or a pattern of undue discrimination against, the Joint Facilities.

25.2 No Delay

No disagreement or dispute of any kind between the parties to this Agreement or between either party and any other entity, concerning any matter including, without limitation, the amount of any payment due from said party or the correctness of any billing made to the party, shall permit the said party, or either of them, to delay or withhold any payment or the performance by either party of any other obligation pursuant to this Agreement. Each party shall promptly and diligently undertake to resolve such disagreement or dispute without undue delay.

25.3 Further Documentation

From time to time after the execution of this Agreement, the parties shall within their legal authority execute any other documents as may be necessary, helpful or appropriate to carry out the terms of this Agreement.

25.4 Notice

Any notice, consent or other communication permitted or required by this Agreement shall be in writing and shall be deemed given when delivered by hand or (unless otherwise required by the terms of this Agreement) when deposited in the United States mail, first class postage prepaid, and if to CP&L, addressed to:

Vice President - Power Supply
Carolina Power & Light Company
P.O. Box 1551
Raleigh, North Carolina 27602

and if to Power Agency, addressed to:

General Manager
North Carolina Municipal Power
Agency Number 3
P.O. Box 95162
Raleigh, North Carolina 27625

unless a different officer or address shall have been designated by the respective party by notice in writing.

25.5 Headings Not to Affect Meaning

The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms and provisions hereof.

25.6 Amendments

This Agreement or any Exhibit hereof may be amended or supplemented by and only by a written instrument duly executed by each of the parties.

25.7 No Partnership; Tax Matters

Notwithstanding any provision of this Agreement, the parties do not intend to create hereby any joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit, and, if it should appear that one or more changes to this Agreement would be required in order not to create such an entity or relationship, the parties agree to negotiate promptly in good faith with respect to such changes. Upon the request of a party, the other party agrees to take, in a timely manner, all voluntary action as may be necessary to be excluded from treatment as a partnership under the Internal Revenue Code of 1954, as amended. Upon the request of a party, the other party agrees to take, in a timely manner, all voluntary action as may be necessary to obtain a ruling from the Internal Revenue Service (a) that no association taxable as a corporation has been created by this Agreement or the Related Agreements; (b) that neither this Agreement nor the Related Agreements would cause the loss of the tax exempt status of the bonds of Power Agency; and (c) that is satisfactory to CP&L relating to the income tax treatment of Power Agency's advances for Fuel Material, Fuel Services and Reload Fuel.

25.8 Successors and Assigns

This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and

assigns. Nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies hereunder.

25.9 Counterparts

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

25.10 Incorporation of Exhibits

Exhibits OFA-I through OFA-XI attached to this Agreement are incorporated in and are part of this Agreement.

25.11 Severability of Provisions

(A) Generally -- In the event a court or other tribunal of competent jurisdiction at any time holds that any provision of this Agreement is invalid, the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.

(B) Specifically as to Article 15 -- In the event a court or other tribunal of competent jurisdiction at any time holds that any provision of Article 15 is invalid, (1) the remainder of Article 15 shall not be affected thereby and shall continue in full force and effect; and (2) to the extent that the subject matter of such invalidated provision is not governed by the remainder of Article 15, said subject matter is to be construed in light of the agreement of the parties that the

amounts payable to CP&L for its performance under this Agreement have been determined on the basis of the intention of the parties that, except with respect to (a) the limited liability of CP&L to restore, repair or replace as specifically provided for in Section 15.2, (b) CP&L's liability under Sections 4.2, 4.3 and 4.4 in using the spent fuel capability at the Brunswick Plant and the Harris Plant for other than Brunswick and Harris fuel, (c) CP&L's liability under Section 24.5, and (d) the liability of the Owners for certain spent fuel specified in Section 3.3, the expense of any and all claims against, or uninsured loss or damage to, CP&L or Power Agency as Owners arising out of, connected with, occasioned by or resulting from this Agreement or any activities hereunder, including, but not limited to, activities by CP&L in its role as operator, shall be borne by the Owners as a cost of operation and maintenance as set forth in Section 15.1.

(C) Renegotiation -- In the event any provision of this Agreement is so held invalid, the parties shall promptly renegotiate in good faith new provisions to restore this Agreement as nearly as possible to its original intent and effect. In this connection, the parties recognize that they have bargained at arm's length in good faith and on equal terms for economic benefits to each party, which are closely interrelated and which produce an overall result which is considered by the parties to be just and reasonable. In recognition thereof, if

any provision of this Agreement is held invalid, and such holding alters the economic benefits flowing to either party, the parties' renegotiation shall attempt to restore the overall economic benefits to each party to the levels provided for in the Agreement as originally executed. If either party concludes that such renegotiations have failed, or will fail, to produce the objective of restoring economic benefits to the levels originally provided for, such party may institute arbitration proceedings in accordance with Article 16, the issues at such arbitration being limited to the means by which such restoration of original economic benefits should be accomplished and shall not involve any issues as to whether such restoration should take place.

25.12 Entire Agreement

This Agreement and, as applicable, the Related Agreements, shall constitute the entire understanding between the parties, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. The parties have entered into this Agreement in reliance upon the representations and mutual undertakings contained herein and not in reliance upon any oral or written representation or information provided to one party by any representative of the other party.

25.13 Applicable Law

This Agreement is made under and shall be governed by the law of the State of North Carolina.

25.14 No Waiver

The failure of either party to enforce at any time any of the provisions of this Agreement, or to require at any time performance by the other party of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this Agreement or any part hereof, or the right of such party thereafter to enforce each and every such provision.

25.15 Singular to Include Plural and Plural to Include Singular

Throughout this Agreement, whenever any word in the singular number is used, it shall include the plural unless the context otherwise requires; and whenever the plural number is used, it shall include the singular unless the context otherwise requires.

25.16 Security of Information

The Owners agree that any information provided under this Agreement shall not be used in a manner which (a) would compromise any part of the security system of any Joint Facility, (b) would be in contravention of any applicable governmental regulation, or (c) would cause an Owner to violate any arrangement regarding confidentiality or proprietary rights which such Owner has with any third party.

25.17 Computation of Time

In computing any period of time prescribed or allowed under this Agreement, the day of the act, event or default from

which the designated period of time begins to run shall be included. If the last day of the period so computed is a Saturday, a Sunday or a legal holiday in North Carolina, then the period shall run until the end of the next day which is not a Saturday, a Sunday or a legal holiday in North Carolina.

25.18 Effect of Default Upon Terms of this Agreement

In the event that the remedies set forth in Sections 14.3 or 14.4 of the Sales Agreement are invoked and applied in connection with an Event of Default (as defined in Section 14.1 of the Sales Agreement), the terms of this Agreement shall be applied in a manner which takes account of the changes in ownership interests or entitlements resulting from such application of Sections 14.3 or 14.4 of the Sales Agreement.

25.19 Changes to Reflect Ownership Interests in Joint Facilities by Other Entities

Power Agency recognizes that CP&L may sell an interest in the Joint Facilities to another entity or entities and, in connection with such sale, Power Agency agrees that CP&L may transfer or assign certain of CP&L's rights and obligations under this Agreement to one or more of such entities. Notwithstanding the preceding sentence, CP&L shall not assign its obligation to operate the Joint Facilities without Power Agency's prior written consent, not to be unreasonably withheld; provided, however, that such consent shall not be required with respect to (a) an assignment or transfer of CP&L's obligation to operate the Joint Facilities when such assignment or transfer applies to all of

CP&L's generating facilities, (b) an assignment or transfer of CP&L's obligation to operate all fossil-fired Joint Facilities when such assignment or transfer applies to all of CP&L's fossil-fired generating facilities or (c) an assignment or transfer of CP&L's obligation to operate all nuclear-fueled Joint Facilities when such assignment or transfer applies to all of CP&L's nuclear-fueled generating facilities. In the event any other entity purchases such an ownership interest in the Joint Facilities, the provisions of this Agreement shall be amended, if necessary, to reflect such other entity's ownership interest. In no event shall such purchase and sale diminish Power Agency's rights under this Agreement.

25.20 References to Articles, Sections and Exhibits

Unless otherwise expressly indicated, all references to Articles, Sections and Exhibits are references to Articles and Sections of, and Exhibits to, this Agreement.

25.21 Proration

For billing under this Agreement, the First Closing and each Subsequent Closing shall be effective as of midnight of the day of closing. Billings for a month in which there is a closing shall be prorated based on the ratio of the number of days remaining in such month after the day of such closing divided by the number of days in such month.

ARTICLE 26

SURVIVORSHIP

26.1 Survivorship of Obligations

The termination of this Agreement shall not discharge either party from any obligation it owes to the other party under this Agreement by reason of any transaction, loss, cost, damage, expense or liability (a) which shall occur or arise (or the circumstances, events or bases of which shall occur or arise) prior to such termination or (b) which shall occur or arise (or the circumstances, events or bases of which shall occur or arise) as a result of this Agreement after such termination. It is the intent of the parties hereby that any such obligation owed pursuant to the preceding sentence (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events or bases of the same shall be known or unknown at the termination of this Agreement) shall survive the termination of this Agreement.

26.2 Survivorship of Provisions

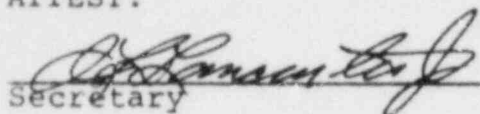
The provisions of Article 15, including specifically, but without limitation, the indemnification provisions thereof, shall remain operative and in full force and effect, regardless of any termination or cancellation of this Agreement, except with respect to actions of the Owners occurring after such termination or cancellation.

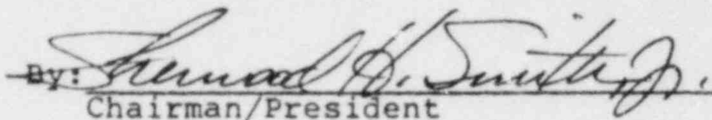
* * *

IN WITNESS THEREOF, the parties have caused this Operating and Fuel Agreement to be signed and sealed as of the day and year first above written, by their duly authorized representatives.

CAROLINA POWER & LIGHT COMPANY

ATTEST:


Secretary


By: Chairman/President

NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 3

ATTEST:

Secretary

By: Chairman, Board of Commissioners

OPERATING AND FUEL AGREEMENT

EXHIBITS

OPERATING AND FUEL AGREEMENT

INDEX OF EXHIBITS

Exhibit Title	Exhibit Reference
Members of Power Agency Number 3	OFA-I-1
Principles of Agreements Relating to Financing of a Capital Addition	OFA-II-1
Calculation of Power Agency's Contribution to the Uranium Account	OFA-III-1
Determination of Uranium Account Average Unit Uranium Cost	OFA-IV-1
O&M Monthly Statement	OFA-V-1
Fuel Monthly Statement	OFA-VI-1
Additions Monthly Statement	OFA-VII-1
Spent Fuel Storage Monthly Charge Calculation	OFA-VIII-1
O&M Expense Allocated to Power Agency	OFA-IX-1*
A&G Expenses, Taxes Other Than Income Taxes, and Income Accounts Allocated to Power Agency	OFA-IX-2*
Determination of Labor Allocation Factors	OFA-IX-3*
Determination of Property Tax Allocation Factors	OFA-IX-4*

EXHIBIT TITLE	EXHIBIT REFERENCE
Determination of Power Agency's Monthly Allocated Expense for General Plant Return on Investment, Depreciation, Income Tax and Property Tax	OFA-IX-5*
Determination of Dispatch Fee and the 12 1/2% Fee For CP&L Labor	OFA-IX-6*
Determination of the Monthly 8 1/2% Fee For Third Party Labor	OFA-IX-7*
Fuel Cost	OFA-IX-8*
Auxiliary Power Expense	OFA-X-1
Determination of Monthly Adjustment to the Working Capital Fund	OFA-XI-1

* These exhibits have been submitted by CP&L to Power Agency. The parties shall promptly undertake negotiations on the final form and substance of these exhibits. If such negotiations do not produce an agreement by the parties on any given exhibit not later than August 21, 1981, the allocation covered by the subject matter of such exhibit shall be governed by Section 7.10.

OFA-I-1

MEMBERS OF POWER AGENCY NUMBER 3

Town of Apex
Town of Ayden
Town of Belhaven
Town of Benson
Town of Clayton
Town of Edenton
City of Elizabeth City
Town of Enfield
Town of Farmville
Town of Fremont
City of Greenville
Town of Hamilton
Town of Hertford
Town of Hobgood
Town of Hookerton
City of Kinston
Town of LaGrange
City of Laurinburg
Town of Louisburg
City of Lumberton
City of New Bern
Town of Pikeville
Town of Red Springs
Town of Robersonville
City of Rocky Mount
Town of Scotland Neck
Town of Selma
Town of Smithfield
City of Southport
Town of Tarboro
Town of Wake Forest
City of Washington
Town of Waynesville
City of Wilson
Town of Windsor
Town of Winterville

PRINCIPLES OF AGREEMENTS RELATING TO FINANCING
OF A CAPITAL ADDITION

(A) Advance by CP&L on Behalf of Power Agency

1. When Power Agency proves to the reasonable satisfaction of CP&L that funds are not available to Power Agency for its proportionate share of the cost (including fees) of a capital addition, CP&L shall advance the necessary funds therefore on behalf of Power Agency.

2. Power Agency shall reimburse to CP&L the principal amount of the advance no later than two (2) years from the date on which monies are first advanced. Power Agency shall have the right to reimburse the principal, in whole or in part, at any time and from time to time, prior to the two-year maturation date.

3. Simple interest on the monies advanced shall be calculated at the Compensatory Interest Rate.

4. CP&L shall bill Power Agency monthly for such interest and such billing shall commence thirty (30) days after the date on which the advance is made. Such monthly bill for interest shall be due and payable to CP&L as of the date shown on the bill. If any portion of the amount due and payable remains unapid fifteen (15) days after the date shown on the monthly bill, a penalty charge shall accrue at the rate of one percent (1%) per month or portion thereof, compounded monthly, on the delinquent amount, including any previously unpaid penalty charge; provided, however, that if funds are on deposit in Power Agency's Working Capital Fund or Capital Additions Advance Fund

established pursuant to Article 8 of the Operating Agreement, CP&L shall offset such part of the delinquent amount as funds are available in either fund by reducing such fund effective on the 16th day following the date on which the payment was due. If CP&L makes such a reduction to either fund, Power Agency shall adjust such fund in accordance with Section 9.4 of the Operating Agreement.

5. The failure of Power Agency to pay interest, penalty charge or principal associated with the advance within sixty (60) days after the date on which such payment becomes due shall constitute an Event of Default under the Operating Agreement.

(B) Lease from Power Agency to CP&L

1. When CP&L proves to the reasonable satisfaction of Power Agency that CP&L is unable to pay for its proportionate share of the costs of a capital addition, Power Agency shall pay the costs thereof.

2. Power Agency and CP&L shall enter into a lease agreement for the use by CP&L of the capital addition involved and the payment of a leased facilities fee by CP&L therefore based on CP&L's capital related cost, which cost shall be calculated in accordance with the methodology set forth in Exhibit PCA-X-1 of the Power Coordination Agreement except that the capitalization ratio shall be calculated using the beginning of the calendar year in which a cost for the capital addition first was incurred.

3. The lease shall have a maximum term of two years and shall contain a required mandatory purchase of facilities leased

at a purchase price equal to the cost to Power Agency of the facilities leased.

4. CP&L shall pay Power Agency monthly the amount of the lease payment commencing thirty (30) days after the date on which the lease is made. Such monthly lease payment shall be due and payable to Power Agency as of the date shown on the bill. If any portion of the amount due and payable remains unpaid fifteen (15) days after the date shown on the monthly bill, a penalty charge shall accrue at the rate of one percent (1%) per month or portion thereof, compounded monthly, on the delinquent amount including any previously unpaid penalty charge.

5. The failure of CP&L to pay any lease payment, penalty charge, or the mandatory purchase price of the facilities within sixty (60) days after the date on which such payment becomes due shall constitute an Event of Default under the Operating Agreement.

6. Notwithstanding any other provision of the Operating Agreement or the Related Agreements, title to such portion of the capital addition so leased shall vest in Power Agency until purchased by CP&L pursuant to paragraph (B) (3) hereof.

CALCULATION OF POWER AGENCY'S CONTRIBUTION TO THE URANIUM ACCOUNT

A. Each Closing

At each Closing Date, CP&L shall perform the following calculations:

(1) As of such Closing Date, all natural uranium, regardless of chemical form, to which CP&L holds title or has the right to utilize by lease or otherwise, and which has not been designated to the account of a specific reactor pursuant to Section 3.2, and all costs associated with such material shall be assigned to the Uranium Account.

(2) Expected deliveries of uranium material over the twelve (12) month period following such Closing Date shall be added to the actual quantities to be included in the Uranium Account as determined in paragraph A(1) above to form the "Adjusted Stockpile." The Adjusted Stockpile shall be used solely in performing the calculations called for in this Exhibit OFA-III.

(3) Using the nuclear fuel plan described in Section 3.1(J), and assuming no deliveries beyond those identified in paragraph A(2) above, the uranium needs for each reactor in the Combined System and the times of such needs shall be determined.

(4) Power Agency's portion of the Uranium Account, expressed as a decimal fraction, shall be determined, as of such Closing Date as follows:

$$P = \frac{\sum_{\substack{i=1 \\ y=1}}^{\substack{m \\ n}} EQ_{i,y} \times (OI_i)}{\text{Adjusted Stockpile}}$$

where: P = Power Agency's portion of the Uranium Account, expressed as decimal fraction

i = designation number of Joint Unit Reactor

m = number of years required to deplete the Adjusted Stockpile

n = number of reactors in the Joint Units

EQ_{iy} = natural uranium requirements for Joint Unit i in year y (in equivalent pounds U_3O_8)

OI_i = Ownership Interest of Power Agency in Joint Unit i just subsequent to the Closing Date for which such calculation is being performed.

(5) Power Agency's contribution to the Uranium Account and each of the subaccounts therein shall be determined by multiplying "P", as determined in paragraph A(4) above, times the cost of uranium material assigned to the Uranium Account pursuant to paragraph A(1) above.

B. Annual Calculation

On January 1 of each year, beginning with the year following the Final Closing Date, Power Agency's contribution to the Uranium Account shall be recalculated using the general methodology described in paragraphs A(1) through A(5) above, with the January 1 date replacing the closing date.

C. Payments

(1) Any variance between Power Agency's contribution to the Uranium Account, as determined in accordance with sections A or B above, and Power Agency's then-current balance of contributions previously paid by Power Agency shall be eliminated by a transfer of funds between Power Agency and CP&L, calculated in the following manner:

(a) The new fraction quantity "P" shall be subtracted from the old fraction quantity "P".

(b) This difference shall be multiplied by the then-current balance of the costs of uranium material assigned to the Uranium Account as described in paragraph A(1) above.

For a variance determined to exist as of any Closing Date, such variance shall be reflected on the Closing Statement associated with such Closing, and shall be paid in accordance with Article 6 of the Sales Agreement. For a variance arising out of an annual calculation described in paragraph B above, such variance shall be reflected on the next Fuel Monthly Statement submitted by CP&L to Power Agency, and

shall be paid in accordance with Article 9 of the Operating Agreement.

(2) Power Agency shall contribute its share of any new costs assigned to the Uranium Account based upon the fraction quantity "P" in effect as of the date of the Fuel Monthly Statement upon which such new cost is reflected. Such payments shall be made in accordance with Article 9 of the Operating Agreement.

DETERMINATION OF URANIUM

ACCOUNT AVERAGE UNIT URANIUM COST

1. Definition of Uranium Account Subaccounts

The Uranium Account shall consist of three subaccounts, as follows:

a. U_3O_8 Subaccount -This subaccount shall contain the quantities and associated costs of nuclear material in the form of U_3O_8 to which CP&L holds title or has the right to utilize by lease or otherwise.

b. Inventory and Conversion (I&C) Subaccount -This subaccount shall contain the quantities and associated costs of nuclear material during the U_3O_8 to UF_6 conversion process when CP&L holds title to or has the right to utilize such nuclear material by lease or otherwise.

c. UF_6 Subaccount -This subaccount shall contain the quantities and associated costs of nuclear material in the form of unenriched UF_6 to which CP&L holds title or

has the right to utilize by lease or otherwise and which has not been designated to the account of a specific reactor pursuant to Section 3.2.

2. Overview of Subaccount Process

a. Nuclear material delivered to CP&L in the form of U_3O_8 shall be credited to the Uranium Account, U_3O_8 Subaccount, upon payment of the delivery invoices. A record of all cost of the material (including escalation thereon) and the cost associated with the acquisition, transportation, storage, weighing and sampling, etc., and the quantity of such material in pounds of U_3O_8, shall be maintained for the U_3O_8 Subaccount. The Average Unit Uranium Cost (in dollars per pound U_3O_8) for U_3O_8 shall be computed in accordance with paragraph 3. below. Dollars associated with nuclear material transferred from the U_3O_8 Subaccount shall be computed as the product of the pounds of U_3O_8 transferred and the Average Unit Uranium Cost for U_3O_8 in effect on the transfer date.

b. When nuclear material in the U_3O_8 Subaccount enters the conversion process, which shall be the date required by conversion contracts for delivery of material required for conversion, such material shall be transferred to the I&C Subaccount. Transfer would include (i) the quantity of nuclear material which is entering the conversion process in pounds of U_3O_8 and (ii) dollars associated with such nuclear material, computed as the product of the pounds of U_3O_8 transferred and the Average Unit Uranium Cost for U_3O_8 in effect on the transfer date.

c. Upon completion of the conversion process (which shall be at the conversion delivery date) the nuclear material in question shall be transferred from the I&C Subaccount to the UF_6 Subaccount. Quantity recorded in the UF_6 Subaccount shall be in units of pounds U as UF_6. Dollars transferred from the I&C Subaccount shall be those dollars previously transferred from the U_3O_8 Subaccount to the I&C Subaccount for the quantity of nuclear material in question. Quantity of nuclear material transferred to the UF_6 Subacount shall be the pounds U as UF_6 actually produced by the conversion

process. Conversion and associated charges and expenses incurred by the nuclear material in question since entering the conversion process shall be charged to the UF_6 Subaccount with such transfer. The Average Unit Uranium Cost (in dollars per pound U as UF_6) for UF_6 shall be computed in accordance with paragraph 3. below. Dollars associated with nuclear material transferred from the UF_6 Subaccount shall be computed as the product of the pounds of U as UF_6 transferred and the Average Unit Uranium Cost for UF_6 in effect on the transfer date.

3. Computation of Subaccount Balances and Average Unit Uranium Cost for U_3O_8 and for UF_6

As of the First Closing Date and on the first day of each subsequent month, balances shall be determined for the U_3O_8 and UF_6 Subaccounts. The dollar balance for each subaccount shall include the balance on the first day of the previous month plus the cost of any additions and less the cost of any withdrawals made during the previous month. The quantity balance for each subaccount shall include the balance on the first day of the previous month plus the quantity of any material transferred into the subaccount and less the quantity of any material transferred out of the

subaccount during the previous month. Using these new balances, the Average Unit Uranium Cost for U_3O_8 and for UF_6 shall be determined by dividing the total dollar amount in each subaccount by the aggregate quantity of uranium material in the respective subaccount. If, as of the date of a withdrawal of nuclear material from a subaccount, transactions have occurred with respect to such subaccount which would affect the then most recently computed Average Unit Uranium Cost for such subaccount, then the Average Unit Uranium Cost for such subaccount shall be recomputed and applied in the determination of the cost of nuclear material so withdrawn.

4. Computation Precision

The Average Unit Uranium Cost computations described in Section 3 above shall be rounded to two (2) decimal places.

OFA-V

PRELIMINARY FORM OF THE
O&M MONTHLY STATEMENT

(TO BE AGREED UPON)

OFA-VI

PRELIMINARY FORM OF THE
FUEL MONTHLY STATEMENT

(TO BE AGREED UPON)

OFA-VII

PRELIMINARY FORM OF THE
ADDITIONS MONTHLY STATEMENT

(TO BE AGREED UPON)

OFA-VIII-1

SPENT FUEL STORAGE

MONTHLY CHARGE CALCULATION

Pursuant to Article 4 of the Operating Agreement and Article 17 of the Sales Agreement, CP&L may utilize the spent fuel storage facilities at the Brunswick and Harris Plants for spent fuel that is other than Brunswick or Harris fuel. Although a very detailed methodology for calculating monthly storage charges for such spent fuel could be developed, the parties agree that the effort and expense necessary are not justified when the amount of money and the inherent uncertainties involved are considered. Thus, in order to simplify the procedures, the parties agree that the monthly charges as determined by this Exhibit shall apply to other than Brunswick spent fuel stored at the Brunswick Plant subsequent to the First Closing Date and to other than Harris spent fuel stored at the Harris Plant subsequent to the date of Commercial Operation of the first Harris Unit.

Within five years after the First Closing Date, and at intervals of each five years thereafter, and at any time that a significant change in the operating costs for spent fuel storage has occured or a major capital addition or repair has been made to the spent fuel storage facilities at the Brunswick Plant or at

the Harris Plant, the parties shall review the actual costs where identifiable and appropriate allocations where costs cannot be specifically identified, and the parties agree to negotiate reasonable modifications to the spent fuel storage charge, if necessary, to restore equity based upon the principles outlined in this Exhibit OFA-VIII.

OFA-VIII-3

TOTAL MONTHLY SPENT FUEL STORAGE CHARGE

MONTH OF __________, ____

PLANT ______________

1. O&M Spent Fuel Storage Charge - BWR Fuel (OFA-VIII-4, line 2d, column 1) $__________

2. O&M Spent Fuel Storage Charge - PWR Fuel (OFA-VIII-4, line 2d, column 2) $__________

3. Total O&M Spent Fuel Storage Charge (line 1 + line 2) $__________

4. Power Agency's Ownership Interest (fraction) __________

5. Amount to be credited to Power Agency's O&M Monthly Statement (line 3 X line 4) $__________

6. Capital Spent Fuel Storage Charge - BWR Fuel (OFA-VIII-4, line 3c, column 1) $__________

7. Capital Spent Fuel Storage Charge - PWR Fuel (OFA-VIII-4, line 3c, column 2) $__________

8. Total Capital Spent Fuel Storage Charges (line 6 + line 7) $__________

9. Power Agency's Ownership Interest (fraction) __________

10. Amount to Be Credited to Power Agency's Capital Additions Advance Fund (line 8 x line 9) $__________

OFA-VIII-4A

TOTAL MONTHLY SPENT FUEL STORAGE CHARGE

MONTH OF ________, ________

PLANT ____________________

	(1) BWR Fuel	(2) PWR Fuel
1. Cost of loading or unloading spent fuel (OFA-VIII-6, line 7)	$________	$________
2. O&M storage charges for spent fuel assemblies		
a. Operating and maintenance cost per assembly (OFA-VIII-10, line 16)	$________	$________
b. Average number of spent fuel assemblies in storage during the month for which the O&M storage charge is applicable NOTE A	________	________
c. Total O&M cost (line 2a x line 2c)	$________	$________
d. Total O&M monthly charge (line 1 + line 2c)	$________	$________
3. Capital Cost Storage Charges		
a. Capital cost per assembly (OFA-VIII-8, line 15)	$________	$________

	(1) BWR Fuel	(2) PWR Fuel
b. Average number of spent fuel assemblies in storage during the month for which the spent fuel storage capital charge is applicable NOTE B	$________	$________
c. Total Capital Cost (line 3a x line 3b)	$________	$________

NOTE A: The average of the monthly beginning and ending balances of other than Brunswick spent fuel stored at the Brunswick Plant or other than Harris spent fuel stored at the Harris Plant, as applicable.

NOTE B: The average number of spent fuel assemblies stored at the Brunswick Plant or the Harris Plant, as applicable, in excess of the storage space capability authorized by CP&L management as the First Closing Date for such Plant, but not more than the number of other than Brunswick spent fuel assemblies stored at the Brunswick Plant or other than Harris spent fuel assemblies stored at the Harris Plant, as applicable. The average number for each month shall be the average of the beginning and ending balances for such month.

OFA-VIII-5A

COST OF CASK LOAD OR UNLOAD (NOTE A)

MONTH OF ____________, __________

PLANT ____________________________

Line No.		(1) BWR Fuel	(2) PWR Fuel
1.	Nonescalatable charges - demineralized water		
	a. Initial cask fill (gallons)	685	685
	b. Cask rinse (gallons)	450	450
	c. Flush, after cask removal, and decay heat removal (gallons)	2,100	2,100
	d. Decontamination (gallons)	6,500	6,500
	e. Total (add a through d)	9,735	9,735
	f. Cost per gallon	$0.025	$0.025
	g. Total nonescalatable charges (multiply lines e & f)	$245.00	$245.00
2.	Escalatable charges		
	a. Clothing (50 changes @ $8.50)	$425.00	$425.00
	b. Miscellaneous paper products	$ 20.00	$ 20.00
	c. Solid waste processing (1 drum at $65 disposal cost)	$ 65.00	$ 65.00

	d. Labor	$475.00	$475.00
	e. Total escalatable charges (add a through d)	$985.00	$985.00
3.	Number of casks loaded or unloaded NOTE B	________	________
4.	Total number of assemblies loaded or unloaded for casks referred to in 3 above	________	________
5.	Total number of spent fuel assemblies loaded or unloaded to which the spent fuel storage charge is applicable	________	________
6.	Escalation factor (OFA-VIII-8, line 3)	________	________
7.	Cost of loading or unloading spent fuel (line 3 X line 5 divided by line 4) X (line 6 X line 2e + line 1g)	$________	$________

NOTE A: Assumes use of the IF-300 type spent fuel cask. Entries in this table may be altered for other casks. Labor rate based on tests at Barnwell Reprocessing Facility requiring 94 manhours/MTHM for 1 legal weight truck cask and $12.50/hr. cost of labor including overheads.

NOTE B: The number of casks loaded or unloaded shall be defined as the number of casks loaded or unloaded at the Brunswick Plant or at the Harris Plant during the month which contained other than Brunswick spent fuel or other than Harris spent fuel, respectively.

OFA-VIII-6A

CAPITAL COST OF STORING SPENT FUEL (NOTE A)

MONTH OF ____________, ____

PLANT ____________________

Line No.		(1) BWR Fuel	(2) PWR Fuel
	Actual Cost of expansions:		
1.	Earthwork and concrete structures	$________	$________
2.	Pool liner and fuel racks	________	________
3.	Mechanical equipment	________	________
4.	Electrical equipment	________	________
5.	Construction labor	________	________
6.	Construction material overhead	________	________
7.	Construction labor overhead	________	________
8.	Design engineering labor and overhead	________	________
9.	Allowance for funds used during construction (based on CP&L's rate for all funds expended)	________	________
10.	Total estimated cost (add lines 1 through 9)	$________	$________
11.	Storage spaces added due to expansion	________	________
12.	Total cost per added space (line 10 divided by 11)	$________	$________

13. Rate for computing annual capital charge NOTE B	.150	.150
14. Annual capital cost, per added space (line 12 X line 13)	$_______	$_______
15. Monthly capital cost, per assembly of storing spent fuel (one-twelfth of line 14)	$_______	$_______

NOTE A: This is the capital cost of all expansions to the storage facilities authorized by CP&L management subsequent to the First Closing Date. If no such expansions have taken place, then the monthly capital cost of storing spent fuel shall be zero.

NOTE B: This rate is based on a reasonable "split the savings" between the estimated capital cost differences of the parties.

OFA-VIII-7A

OPERATING AND MAINTENANCE COST OF STORING SPENT FUEL

MONTH OF ____________, ______

PLANT ______________________

Line #		(1) Brunswick	(2) Harris
1.	Periodic replacement of HVAC System charcoal filters; 1 change/5 years at $44,000 per change ($44,000/5 = 8,800) NOTE A	$ 8,800	$ 8,800
2.	Periodic replacement of HVAC System HEPA filters; 1 change/5 years at $41,250 per change $41,250/5 = $8,250) NOTE A	$ 8,250	$ 8,250
3.	Periodic replacement of HVAC System prefilters; 1 change/8 months at $750 per change ($750 X 1.5) NOTE A	$ 1,125	$ 1,125
4.	HVAC System annual energy consumption (KWH)	980,000	980,000
5.	Cooling and cleanup system annual energy consumption (KWH)	1,530,000	1,530,000
6.	Total energy consumption related to spent fuel storage capacity (KWH) (line 4 + line 5)	2,510,000	2,510,000
7.	Estimated energy cost per KWH	$ .00700	$ .00700
8.	Annual cost of energy consumed (line 6 X line 7)	$ 17,570	$ 17,570
9.	Total annual operating and maintenance cost of spent fuel storage capacity (line 1 + line 2 + line 3 + line 8)	$ 35,745	$ 35,745
10.	Monthly operating and maintenance cost of spent fuel storage capacity (one-twelfth of line 9) NOTE B	$ 2,978	$ 2,978

11. Weighted allocation of storage area

    a. Fraction to BWR fuel ________ ________

    b. Fraction to PWR fuel ________ ________

12. Allocation of monthly operating & maintenance cost

    a. BWR fuel (line 10 x line 11a) ________ ________

    b. PWR fuel (line 10 x line 11b) ________ ________

13. Number of storage spaces

    a. BWR fuel ________ ________

    b. PWR fuel ________ ________

14. Monthly cost per space in 1980 dollars of operation and maintenance of spent fuel storage capacity

    a. BWR fuel (line 12a ÷ line 13a) $________ $________

    b. PWR fuel (line 12b ÷ line 13b) $________ $________

15. Escalation factor (OFA-VIII-8, line 3) ________ ________

16. Operating and maintenance cost of storing spent fuel.

    a. BWR fuel (line 14a x line 15) $________ $________

    b. PWR fuel (line 14b x line 15) $________ $________

NOTE A: The HVAC system at Brunswick serves the entire secondary containment structure, not just the spent fuel pool. The filter replacement costs, however, are thought to be representative of a system designed to serve the spent fuel pool only.

NOTE B: Based on average heavy metal content of 1 BWR assembly equal to 2/5 of a PWR assembly.

$$\text{Fraction to BWR fuel} = \frac{\text{Total BWR storage spaces}}{\text{Total BWR} + 5/2 \times \text{PWR storage spaces}}$$

Fraction to PWR fuel = 1.00 - Fraction to BWR.

OFA-VIII-8

ESCALATION FACTOR

MONTH OF ________, ________

PLANT ________________________

Line #

1. Producer Price Index, Industrial Commodities (1967 = 100), as published by the Bureau of Labor Statistics for the second preceding month ________

2. Producer Price Index, Industrial Commodities (1967 = 100), as published by the Bureau of Labor Statistics for July 1980 275.60

3. Escalation Factor (line 1 divided by line 2) ________

OFA-IX-1

O&M Expense Allocated to Power Agency

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-2

A&G Expenses, Taxes Other Than Income Taxes,
And Income Accounts Allocated to Power Agency

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-3

Determination of Labor Allocation Factors

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-4

Determination of Property Tax Allocation Factors

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-3

Determination of Power Agency's Monthly Allocated Expense
For General Plant Return on Investment, Depreciation,
Income Tax and Property Tax

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-6

Determination of Dispatch Fee and the 12 1/2% Fee
For CP&L Labor

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-7

Determination of the Monthly 8 1/2% Fee
For Third Party Labor

(TO BE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-IX-8

Fuel Cost

(TO bE PROVIDED.
SEE FOOTNOTE TO
INDEX OF EXHIBITS.)

OFA-X

Auxiliary Power Expense

Month of ___________, ____

Line No.		Col. 1 Brunswick 1	Col. 2 Brunswick 2	Col. 3 Roxboro 4	Col. 4 Mayo 1	Col. 5 Mayo 2	Col. 6 Harris 1	Col. 7 Harris 2	Col. 8 Harris 3	Col. 9 Harris 4
1.	Power Agency's Monthly Total Auxiliary Power (Note A)	____	____	____	____	____	____	____	____	____
2.	Reserve Energy Monthly Rate ($/KWH)(Note B)	____	____	____	____	____	____	____	____	____
3.	Power Agency's Auxiliary Power Expense (Line 1 x Line 2)	____	____	____	____	____	____	____	____	____

Note A: Power Agency's share of monthly total auxiliary power for each Joint Unit shall be the monthly total of Power Agency's Ownership Interest in each hour times the amounts calculated by subtracting (1) the metered gross kilowatt hours generated by such Unit during each hour for which the applicable Joint Unit's Output is zero from (2) the auxiliary power used by such Unit during such hour.

Note B: The Reserve Energy Monthly Rate is determined pursuant to Exhibit PCA-1-31 of the Power Coordination Agreement.

PRELIMINARY FORMAT OF THIS EXHIBIT
(FINAL FORMAT TO BE AGREED UPON LATER)

OFA-XI

Determination of Monthly Adjustment
To the Working Capital Fund

(TO BE AGREED UPON)