

Alabama Electric Cooperative, Inc.
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Andalusia, Alabama 36420
(205) 222-2571



June 29, 1984

Mr. Richard C. DeYoung
Director
Office of Inspection and
Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. DeYoung:

Alabama Electric Cooperative, Inc. (AEC), pursuant to Section 2.206 of the Commission's Rules of Practice, requests the Director, Office of Inspection and Enforcement, to take appropriate action against Alabama Power Company (APCo) in connection with APCo's licenses for the operation of Farley Nuclear Plant, Units 1 and 2, based on APCo's willful and continuing violation of Antitrust License Condition No. 2. Under the circumstances set forth below, it is submitted that appropriate action should include (1) suspending APCo's licenses to operate Farley Nuclear Plant unless, within the period fixed by you for APCo's response, APCo has discontinued all such violations and has demonstrated that it has brought itself into full compliance with said Condition No. 2; and (2) imposing upon APCo the maximum civil penalty provided by law.

All licenses issued to APCo for the Farley Nuclear Plant, Units 1 and 2, are subject to Antitrust License Condition No. 2, which provides:

"2. Licensee shall offer to sell to AEC an undivided ownership interest in Units 1 and 2 of the Farley Nuclear Plant. The percentage of ownership interest to be so offered shall be an amount based on the relative sizes of the respective peak loads of AEC and the Licensee

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(excluding from the Licensee's peak load that amount imposed by members of AEC upon the electric system of the Licensee) occurring in 1976. The price to be paid by AEC for its proportionate share of Units 1 and 2, determined in accordance with the foregoing formula, will be established by the parties through good faith negotiations. The price shall be sufficient to fairly reimburse Licensee for the proportionate share of its total costs related to the Units 1 and 2 including, but not limited to, all costs of construction, installation, ownership and licensing, as of a date, to be agreed to by the two parties, which fairly accommodates both their respective interests. The offer by Licensee to sell an undivided ownership interest in Units 1 and 2 may be conditioned, at Licensee's option, on the agreement by AEC to waive any right of partition of the Farley plant and to avoid interference in the day-to-day operation of the plant." [1/]

The intent of this License Condition was explicated at length in ALAB-646, 13 NRC at 1102-1108. This condition has been final and binding on APCo since August 10, 1981. However, in the nearly three years since that date, it is the submission of AEC that APCo has made no good faith effort whatsoever to comply with this License Condition; that APCo instead has refused to negotiate a reasonable ownership agreement with AEC; and to the extent APCo has been willing to discuss the matter at all, APCo has proposed highly irrational, bizarre and unreasonable terms and conditions with respect to AEC's ownership rights such that APCo's position clearly evidences bad faith and a deliberate

1/ This License Condition was imposed, and its lawfulness and appropriateness was upheld and affirmed in extensive litigation. In the Matter of Alabama Power Company, ALAB-646, 13 NRC 1027 (1981), Commission review denied, 14 NRC 795 (1981), affirmed Alabama Power Co. v. Nuclear Regulatory Com'n, 692 F.2d 1362 (11th Cir. 1982), rehearing and rehearing en banc denied 698 F.2d 1238 (1983), certiorari denied ____ U.S. ____, 104 S.Ct. 72 (1983).

practice and course of conduct of refusing to comply with the License Condition required by this Commission.^{2/}

On July 17, 1981, AEC by letter requested APCo to furnish detailed cost information on the Farley Units to enable meaningful discussions to get under way. On July 23, 1981, APCo by letter refused to initiate discussions and, by its silence on the subject, refused to furnish the requested cost data. After a renewed request by AEC in October, 1981, APCo responded that the cost data would be forwarded later; implicit in this response was the incredible claim that APCo did not then have cost data for its nuclear units currently available. APCo also took the position that AEC would have to pay replacement cost to APCo for the amount of capacity represented by AEC's share of the nuclear units. Some data was furnished by APCo in November 1981; however, it required a number of clarifications and explanation due to its barebones nature. This was requested by letter from counsel for AEC to counsel for APCo, January 6, 1982. A partial response was received from APCo in February 1982.

The foot-dragging and bad faith tenor of APCo's approach to discussions regarding its compliance with its License Condition may be gleaned from passages from its letter of May 6, 1982, written at the time that AEC was still trying to get reasonably detailed cost data from the Company:

"As you are aware, the sale of plant as required by this license condition will result in the need to replace the capacity sold with capacity costing in the thousands of dollars per kilowatt. This additional cost must then be recovered in our rates to our customers. We would be interested in getting

^{2/} APCo's numerous requests for stay of the effectiveness of this ownership access License Condition were denied successively by the Commission (14 NRC 795, October 22, 1981), by the Eleventh Circuit (orders issued January 20, 1982, and March 4, 1983), and by Justice Powell acting as Circuit Justice (order issued April 6, 1983). Thus, at all times since August 10, 1981, APCo has had an affirmative obligation to comply with Antitrust License Condition No. 2.

your views as to how the price of the capacity to be sold to AEC should be established in view of the additional cost burden which the sale will impose on customers.

"2. We would also be interested in your views as to provisions to be included in any agreement for sale dealing with how such sale could be reversed at a later date should Alabama Power's appeal of the decision requiring imposition of the condition be successful."

* * *

"As you are aware, the Appeal Board order penalizes the retail and other wholesale consumers of Alabama Power by accepting AEC's argument and requiring a sale which would allocate part of the Farley Plant to AEC's customers which the plant was not designed to serve. This was done not only by including in the calculation loads of AEC which were never intended to be served by the Farley Plant, i.e., the 'on system' customers, but also, by allocating the plant on the basis of the non-coincident peak load of AEC rather than the coincident peak demand of Alabama Power's customers."

AEC's response dated June 4, 1982 to these alleged APCo concerns constitutes TAB A hereto.

Some cost data was furnished by APCo in June and July of 1982, and some time was required to attempt to resolve inconsistencies and discrepancies among the data. A meeting on May 24, 1983, was scheduled by telephone. On April 29, 1983, prior to that meeting, APCo submitted an outline of conditions of sale. APCo's letter expressed inter alia the following positions:

"As you are aware, APCO continues to disagree with the necessity for any license conditions to be imposed, and with the propriety of the conditions imposed, particularly the one requiring forced sale of the plant to AEC."

* * *

"This outline is subject to revision during negotiations to reflect matters not heretofore recognized as problems associated with the proposed joint ownership arrangement."

* * *

"Fees for operating and maintaining the plant, shall be \$1.0 million per year, escalated each

year based on an acceptable Government index. A fee shall also be assessed equal to 15% of AEC's pro rata share of all direct and indirect expenditures associated with the making of any capital improvements. A fee equal to ten percent (10%) of AEC's pro rata share of the annual fuel costs shall also be assessed. These fees have been set on the assumption that APCO will have no responsibility to AEC for any loss associated with the plant, arising out of operations, maintenance, making of improvements or nuclear fuel acquisition activities."

* * *

"Provision will be included to exclude liability on the part of APCO for losses or costs to AEC for conduct of APCO, its agents, contractors or employees even though such conduct is alleged or determined to be willful, wanton, reckless or merely negligent."

* * *

"AEC shall be responsible for a pro rata share of all fines or penalties of any nature, under any law or regulation, associated with the operation, maintenance or decommissioning of the plant, including those imposed by NRC, EPA, other federal, state or local regulatory bodies, or by federal, state or local courts."

* * *

"REA shall guarantee the contingent liabilities of AEC associated with its ownership interest in the nuclear plant and its responsibility for payment of costs and expenses under the Operating Agreement."

* * *

"AEC's obligations under the Agreement shall be secured by a second mortgage on AEC's system."

"We would note further that in view of our offer made in this letter, we are hereby withdrawing our offer made in 1974 to negotiate the sale of unit power to AEC from the nuclear plant."

Apart from other highly unreasonable terms and conditions which APCo has been proposing, it is also clear that APCo's proposal for pricing AEC's share of the Farley Units demonstrates by itself APCo's bad faith and unreasonableness. It will be recalled that the license conditions require an

offer to sell at the cost of the plant to be determined by AEC's (not APCo's) cost of financing. ALAB-646 specifically rejected a unit power sale because inter alia it "includes a rate of return [profit] on the owner's [APCo's] investment," thereby depriving AEC of "the benefits of the advantageous financing otherwise available to it for the capital costs attributable to it [AEC's] share of the plant." 13 NRC at 1104.

APCo's pricing proposals are contained in Exhibit I to the Company's letter of April 29, 1983 [TAB B], APCo's data responses of June 10, 1983 [TAB C], APCo's proposed Purchase And Ownership Agreement (April 11, 1984) [TAB E], and APCo's proposed Operating Agreement (June 1, 1984) [TAB F]. AEC's response of June 24, 1983, to some of the objectionable aspects of APCo's June 1983 proposals is attached as TAB D. In its proposals APCo attempts to extract from AEC an approximate 100% profit for APCo above APCo's (unverified) book cost. From this aspect of APCo's position, it is evident that APCo remains blatantly contemptuous of its obligation to adhere to the terms of the licenses granted to it by this Commission. APCo's techniques for attempting to extract windfall profits in violation of its license requirements include:

- (1) attempting to charge AEC partially on the basis of replacement value of the Plant (i.e., charging AEC appreciation on a Plant which was depreciating during the period during which APCo has unlawfully denied AEC ownership access);

- (2) attempting to charge a fictitious "incremental gross AFUDC" (\$393 million for the Plant) which denies AEC its own cost-of-money benefits, which violates the Uniform System of Accounts, and which would profit APCo for APCo's continued refusal to grant ownership access for a decade and a half;

- (3) attempting to charge an incremental \$70 million for the Plant for "ownership risk" on the irrelevant claim that utilities building nuclear plants today have higher equity costs than existed at the time the Farley Units were built;

(4) attempting to include an income tax factor of \$246 million for the Plant (based in large part on the profit APCo seeks to make from AEC) without showing or even claiming that APCo will actually suffer any income tax payment because of the sale, and without recognition that if any adverse income tax effect were to result, it would be solely the result of APCo's management's deliberate decision to unlawfully withhold ownership access from AEC and therefore must be borne by APCo stockholders;

(5) attempts to collect an "entitlement fee" (\$170 million above Plant cost) as an arbitrary profit, contrary to the license conditions;

(6) attempts to receive \$114 million per Plant for "adverse financial consequences" to compensate for alleged depressed Southern Company stock prices (without regard to whether these so-called "adverse financial consequences" were attributable to the financial community's negative opinion as to APCo's management, or a variety of other possible causes);

(7) attempts to receive substantial profits from AEC over and above APCo's actual costs from the sale of nuclear fuel rights, and for the operation of the facility.

Apart from such unreasonable and unwarranted components in its pricing proposals, APCo has also proposed a percentage ownership for AEC which is contrary to the formula developed in ALAB-646 (see 13 NRC at 1107-1108) and which attempts to deprive AEC of AEC's fair share of the Farley Units. As AEC responded on June 24, 1983 [TAB D]:

"1. We must first disagree with the ownership percentage (5.95%) suggested by APCo. The 243.9 MW AEC on-system peak and the 40 MW deduction for industrial and Florida load were provided by AEC. However, we estimate the load contributed by AEC's off-system members to be higher than what you have

utilized. In any case, it appears that your 184.0 MW estimate is at the delivered level. If this is true, losses must be added to your estimate to obtain a generation level number consistent with the generation level on-system load. Further we cannot accept your subtraction of SEPA preference customer demand from the off-system component. ALAB-646 makes clear that the proper measure is the peak load, or demand, of AEC and off-system members -- not merely the increment of demand furnished by APCo. As the Board said (13 NRC at 1108)

'AEC suggests instead that the ratio should be pegged to the load of AEC's on-system and off-system members and of the applicant at the time of their respective peak loads. [Emphasis in original.]

"We agree with this position of AEC. Basing the allocation formula on the time of applicant's peak demand skews the result in its favor. A more equitable division of ownership would result if the shares were to be determined by the respective peak demands of AEC and the applicant occurring during 1976. The license condition we impose is based accordingly.'

There is simply no rational basis for APCo to deduct the SEPA increment from the peak load measure.

"Finally, we note that the Company used 5880.5 MW as the measure of its peak load, July 26, 1976 at 1:00 p.m. However, this is not consistent with Company representations made elsewhere. The Company's 1976 Form 1 and rate case historical data for July 1976 indicates that the Company's peak occurred on July 14, 1976 with the hour ending at 4:00 p.m. The rate case data also indicates a greater contribution by AEC members than the 173.3 MW shown in your June 10, 1983 data. We also believe that this number does not include losses, but is measured at the delivered level.

"The Company's computation of AEC's load component is clearly defective as noted above, and the better measure is the 410.9 MW furnished to you in my letter of June 4, 1982. While the Company has had this measure for over a year it has never taken issue with it. Even this measure understates the load component AEC is entitled to,

since it sums AEC's peak and the demands on the off-system members coincident to AEC's peak. Under the Antitrust License Conditions, AEC is entitled to a measure that sums AEC's peak and the non-coincident peaks of each off-system member. Thus, the 410.9 MW measure understates AEC's actual load component under the ALAB-646 formula."

Properly computed (based on AEC's and its off-system members' peak load), AEC's ownership share is 6.7%. While APCo has subsequently accepted some corrections which would bring its figure above the 5.95% it initially proposed, it has steadfastly refused to accept the correct 6.7% figure.

Other contract terms insisted upon by APCo which evidence and confirm APCo's bad faith and refusal to comply with its NRC licenses are found in correspondence from APCo, positions stated by APCo at negotiation meetings, and in APCo's proposed draft Ownership and Operating Agreements (TABS E and F), which were submitted in response to AEC's proposed Joint Ownership, Operating and Nuclear Fuel Agreement of January 20, 1984 [TAB G]. Among these APCo-proposed unconscionable conditions are:

- (a) APCo's insistence that the Rural Electrification Administration "guarantee" AEC's performance for the life of the agreement. APCo continues to insist on this even though it has been informed that REA could not agree to such a condition. Nor has APCo indicated any basis upon which one might conclude that REA has the statutory authority to take such a position. Indeed, it must have been apparent to APCo from the beginning that there was not the slightest possibility that REA would ever issue such a guaranty. Accordingly, it would be difficult to avoid the conclusion that the proposal was advanced not in good faith but for the purpose of forestalling a contractual arrangement of the type required by the license.

- (b) Though APCo insists that AEC pay in advance for all capital and operating costs (even prior to the determination of the dollar value of those costs), APCo also demands a second mortgage on AEC's entire electric system, while at the same time APCo refuses to make even the barest commitment to operate the Farley Plant in a reasonable manner.
- (c) Not only has APCo refused to agree in any way to assist in the gaining of necessary regulatory approvals for AEC's acquisition of its ownership share, but APCo has informed AEC that APCo fully reserves the right to raise objections thereto.
- (d) APCo refuses to accept any responsibility to AEC for any gross negligence or reckless misconduct by APCo in the operation of the Plant. At the same time, APCo insists that AEC share payment of any fines or penalties incurred by APCo as sole operator of the facility even to the extent that the APCo conduct resulting in such penalties occurred prior to the time when AEC takes title to AEC's share of the Units.
- (e) APCo insists that AEC is fully liable for any "incremental costs" (whatever that may mean) of AEC's joint ownership, and APCo attempts to reserve the right to define solely in its own discretion what such an "incremental cost" is.

A review of APCo's proposed agreements will demonstrate a number of other plainly unreasonable terms and conditions. However, the above examples are sufficient to establish that APCo has not been and is not pursuing compliance with its NRC license obligations in good faith, and that enforcement action by the Commission is promptly required to cure APCo's contemptuous refusal to meet its obligations as an NRC licensee. In the absence of enforcement action by the Commission, there is a high probability that, because of the

course APCo is pursuing, the Farley Units will serve out their useful operational life before some reasonable agreement can be arrived at with APCo.

Respectfully submitted,

ALABAMA ELECTRIC COOPERATIVE, INC.

By Charles R. Lowman
General Manager

INDEX TO TABS

- TAB A Letter from Charles R. Lowman to Jesse S. Vogtle,
June 4, 1982
- TAB B Letter with attachments from H. Allen Franklin to
Charles R. Lowman
April 29, 1983
- TAB C Letter with attachments from Jesse S. Vogtle to
Charles R. Lowman
June 10, 1983
- TAB D Letter with attachments from Charles R. Lowman to
Jesse S. Vogtle
June 24, 1983
- TAB E Letter with attached Alabama Power Company draft
Purchase and Ownership Agreement from Robert A. Buettner
to Charles R. Lowman
April 11, 1984
- TAB F Letter with attached Alabama Power Company draft
Operating Agreement from Robert A. Buettner to
Charles R. Lowman
June 1, 1984
- TAB G Letter with attached Alabama Electric Cooperative, Inc.
draft Joint Ownership, Operating, and Nuclear Fuel
Agreement from Charles R. Lowman
January 20, 1984

Alabama Electric Cooperative, Inc.

POST OFFICE BOX 550
Andalusia, Alabama 36420

June 4, 1982

Mr. Jesse S. Vogtle
Executive Vice President
Alabama Power Company
P. O. Box 2641
Birmingham, Alabama 35291

Dear Mr. Vogtle:

This is in response to your letter of May 6, 1982. Jeff Parish has contacted the Company regarding his visit to its offices to gather the information needed by AEC, and not yet furnished by the Company, for meaningful discussions regarding AEC's purchase of an undivided share of Farley Nuclear units 1 and 2. In response to your specific questions, we offer the following comments:

1. The claim in your letter that a sale of a share of the Farley units to AEC (which would enable the Company to be on belated compliance with its licenses to operate these units) would place a cost burden on the Company's customers is ludicrous. The Company has and will have excess capacity in substantially greater amounts than will be sold to AEC from the nuclear units.

AEC's capacity entitlement represents less than 1.5% of the Company's capacity at a time when the Company enjoys a 23.2% reserve margin and the Southern System pool has a 30% reserve margin. The Southern Companies subregion of SERC projects reserves from 39% to 30% for the 1982-1991 period. Most impressive are the high export sales being made by the Company and its affiliates--from 350 mw to 2000 mw to Florida Power and Light for 1983-1995; from 300 mw to 500 mw to the Jacksonville Electric Authority for 1983-1993; and 500 mw to Gulf States Utilities for 1984-1992. It is evident that the Company and the System are and will be capacity fat in the next decade.

Further, the Company has been on explicit notice from the Commission since the receipt of its construction permit for Farley unit 1 that it must conduct its planning and other activities taking into consideration the possible future imposition of conditions granting access to the Farley units to other systems. Thus, if the Company

Mr. Jesse S. Vogtle
June 4, 1982
Page 2

management has deliberately ignored the Commission's warning, with the result that the sale of AEC's share of the nuclear units would produce any negative economic impact on the Company, that is a product of APCo's own management decision for which the Southern Company, as stockholder, must pay the price.

In no event will AEC compensate, or make whole, the Company for its management's decision to ignore the notice given it by the Commission. No replacement capacity needs of the Company may be taken into consideration in the cost to AEC of AEC's portion of the units. To do so would be contrary to the license conditions imposed on the Company because of its anticompetitive conduct. The purchase price of AEC's share in the units must be set at a level that avoids any economic penalty to AEC for the Company's anticompetitive refusal to grant access to the units from the early 1970's to the time of consummation of the sale.

However, if the Company persists in its claim that it has replacement capacity problems, AEC would be willing to discuss with the Company the early termination of Company service to certain distribution cooperative delivery points as a means of freeing up embedded-cost capacity to alleviate the Company's purported problem.

2. While it is extremely unlikely that the NRC's decision will be reversed on appeal, the Company's concerns can easily be resolved on this matter. It is our understanding that numerous joint ownership agreements provide for reconveyances under certain circumstances and so could the Farley ownership agreement. For example, the Wansley and Hatch Ownership Agreements between Georgia Power Company and Oglethorpe Power Corporation provide for reconveyance as do the Detroit Edison, Northern Michigan Electric Cooperative, and Wolverine Electric Cooperative Agreements regarding units Enrico Fermi Nuclear units No. 2. Similar clauses are contained in the Crystal River unit 3 and Catawba joint ownership agreements regarding units constructed by Florida Power Corporation and Duke Power Company, respectively. With respect to the contingency of extinguishing the right of a third-party security holder advancing funds to AEC, such security holder would be obligated to release such lien when the loan funds are repaid. For example, it is normal practice for the REA to have such clauses in its mortgages including those used to assist in the financing by cooperatives of nuclear joint ownership participation arrangements with investor-owned utilities.

Mr. Jesse S. Vogtle
June 4, 1982
Page 3

AEC plans to borrow funds from the FFB through REA. A mortgage would be required and an advance agreement would be reached with respect to the release of property from the mortgage if a reconveyance to the Company were to become necessary.

3. Regarding paragraph 3 of your letter which addresses AEC's percentage ownership, your quibbles with the formula for ownership in the license conditions were best addressed to the NRC's Appeal Board when the matter was pending before it. We see no reason to debate the existing license conditions, and we hope that the Company intends to comply with them. Again, as we have said above, any economic "penalty" claimed by the Company is the direct result of its management's decision to take steps contravening the antitrust laws and should not be borne by AEC or the Company's customers.

We have calculated that AEC's peak load for use in computing percentage of ownership interest would be 410.9 megawatts. This was arrived at by taking the 60-minute system peak demand of 243.9 megawatts established on July 21, 1976, adding a calculated coincidental peak demand of 207 megawatts for the "off-system" member load, and subtracting 40 megawatts calculated as the Florida and industrial load contribution to the integrated system demand. Calculations and other data on this matter can be covered in detail when preliminary discussions begin.

4. Our review of the Farley nuclear units costs, which is not completed, indicates at this point that AEC would achieve favorable economies from the present acquisition of its share of the units.

After Mr. Parish completes his review of data in Birmingham, we shall contact you to establish a time and place for discussion of the acquisition.

Sincerely yours,

Charles R. Lowman

Charles R. Lowman
General Manager

CRL:elf

600 North 18th Street
Post Office Box 2641
Birmingham, Alabama 35291
Telephone 205 250-1000

H. Allen Franklin
Senior Vice President



Alabama Power
the southern electric system

April 29, 1983

C O N F I D E N T I A L

Mr. Charles R. Lowman
General Manager
Alabama Electric Cooperative, Inc.
P. C. Box 550
Andalusia, Alabama 36420

Dear Mr. Lowman:

Section 2.F.(2) in each of the Operating Licenses issued by the Nuclear Regulatory Commission for Units 1 and 2 of Alabama Power Company's nuclear plant requires Alabama Power Company ("APCO") to offer to sell Alabama Electric Cooperative, Inc. ("AEC") a joint ownership interest in those units. In discussions with your counsel, it was agreed that we meet with you on May 24, 1983 to discuss such an offer. We are furnishing you in this letter the outline of an offer which APCO is making solely as a response to these license conditions.

As you are aware, APCO continues to disagree with the necessity for any license conditions to be imposed, and with the propriety of the conditions imposed, particularly the one requiring forced sale of the plant to AEC. Because of our disagreement, the appeal of the decision of the Eleventh Circuit Court of Appeals will be pursued. This letter and the discussions which follow between APCO and AEC shall not constitute a waiver of APCO's position with respect to the ongoing litigation. The outline of terms and conditions set forth herein forms the basis on which APCO proposes to sell an ownership interest in both units of the nuclear plant to AEC. Actual sale of such ownership interest shall be subject to a condition precedent that APCO's appeal of the Atomic Safety and Licensing Board's order is unsuccessful and the United States Supreme Court fails to require alteration of the requirements of Section 2.F.(2) of the licenses.

As you are aware, APCO has expressed concern for the past ten years that the sale of a joint ownership interest in the plant to AEC could result in increased costs to APCO and decreased nuclear plant safety because of shared managerial

Mr. Charles R. Lowman
April 29, 1983
Page 2

responsibilities. We have been told repeatedly that neither concern is well founded. To assure that this involuntary sale of the ownership interest in the plant to AEC will actually avoid these problems (i.e., provides assurance that AEC's interest will not increase risks and avoids assumption by APCO of any risk of costs associated with the ownership share of the plant conveyed to AEC), the contractual arrangements will have to be carefully structured. With this objective in mind and subject to the reservations set forth above, as well as any other matters which may arise during negotiations that are necessary to achieve this objective, APCO is setting forth below an outline of the basis on which APCO will sell an ownership interest in its nuclear plant to AEC. This outline is subject to revision during negotiations to reflect matters not heretofore recognized as problems associated with the proposed joint ownership arrangement.

A. Sale of Ownership Interest in Plant Facilities:

APCO will convey to AEC an undivided ownership interest in Units 1 and 2 of the nuclear plant; the property constituting the plant to be conveyed being described generally below. The amount of the ownership interest to be conveyed shall be 5.95% which has been determined in accordance with the following formula:

$$\% \text{ Interest} = \frac{A}{A + B}$$

Where A = The sum of the 1976 peak hour loads of the wholesale for resale customers of AEC in Alabama served directly by AEC and the peak hour loads of the wholesale for resale members of AEC served by APCO.

B = APCO's 1976 territorial peak hour load (exclusive of loads of members of AEC served by APCO).

The sale of the property shall be based on payment at closing of the amount reflected on Exhibit 1 attached hereto. The price developed on Exhibit 1 considers both the reasonable value of the nuclear plant and all costs to APCO related to the plant. As you are aware, the Eleventh Circuit, in affirming the order of the Atomic Safety and Licensing Appeal Board requiring an offer for sale of an interest in the plant, stated that "AEC would, of course, pay the reasonable value for this

Mr. Charles R. Lowman
April 29, 1983
Page 3

interest." We have secured from EBASCO Services, Incorporated, an engineering services organization which has expertise in nuclear plant costing methodologies, an estimate of the reasonable value of the plant. This estimate reflects a conservative judgment of the reproduction cost of the plant less depreciation. As you are aware, this methodology is commonly used for the valuation of utility property and is less than the amount which some jurisdictions have held just compensation in cases of forced sales of utility property.

APCO has also developed the total cost of the plant to APCO. Both the cost to APCO and the estimated reasonable value are shown on Exhibit 1. To arrive at the price at which the plant is being offered to AEC, we have averaged the EBASCO determination of reasonable value and the cost of the nuclear plant to APCO.

In addition, Exhibit 1 shows the breakdown of the price for the nuclear fuel component. All of these prices on Exhibit 1 are predicated on a June 30, 1983 basis and will, of course, have to be adjusted to the actual date of closing.

The contract for sale and deed shall be predicated on the following general principles:

1. Fee title only to land constituting the Security Protected Area of the nuclear plant site will be included in the sale. At APCO's option, AEC shall reconvey this interest in land to APCO for nominal consideration upon complete decommissioning. Facilities to be conveyed will be those improvements on the entire site, which shall include all facilities necessary for operations of Units 1 and 2. Included in the sales price shall be an amount necessary to acquire a contract right to AEC's pro rata portion of nuclear fuel (and nuclear fuel ingredients not yet incorporated in nuclear fuel).
2. All facilities shall be sold by quit claim deed on an "as is, where is" basis, with an express assumption by AEC of all risks associated with ownership, operation, and future maintenance of the facilities. In addition, there shall be an explicit negation of all expressed or implied warranties as to the condition and quality of the facilities.

3. AEC shall agree to accept the terms and conditions of, and agree to be bound by, all contracts which have been entered into or will be entered into by APCO or others on APCO's behalf in connection with the construction, operation and maintenance of the facilities or purchase of nuclear fuel or contract relating to any step in the nuclear fuel cycle. In the event APCO incurs any incremental costs under such contracts because of the sale of the interest in the nuclear plant to AEC, AEC shall bear the total responsibility for such incremental costs.
4. AEC shall be responsible for the total costs of any requirements for changes or alterations of the plant, APCO's accounting system or any other aspect of APCO's operations which result from AEC's acquisition of an ownership interest, such as, the cost of complying with requirements of REA as lender to AEC.
5. APCO, its agents, contractors and their employees shall be held harmless by AEC against any claim by AEC, its members or purchasers, their customers, and any other party for any cost or liability of any character as a result of the condition of the nuclear plant, including any patent or latent defects or any other condition of the facilities (including nuclear fuel) transferred, whether or not APCO, its agents, contractors and their employees are aware of such condition at the time of sale and whether or not such condition has been revealed to AEC prior to the sale of the plant. After sale of the interest in the plant to AEC, AEC shall be responsible for its pro rata portion of any liability to third persons which results from the plant whether or not such liability is traceable to causes which occurred before the sale of the interest in the plant to AEC.
6. APCO, its agents, contractors and their employees shall not be liable to AEC in any way as a result of the damages, costs or liability which AEC may incur as a result of any violation or infringement of a patent, trademark, service mark or proprietary agreements associated with the facilities to be conveyed.

7. AEC shall also be responsible for a pro rata portion of all cost of making capital improvements and additions, operation, maintenance and decommissioning of the nuclear plant as well as the acquisition of nuclear fuel for such plant, all as more explicitly dealt with in the Operating Agreement.
8. AEC shall waive the rights to partition, or sale in lieu of partition, normally associated with joint ownership of property under Alabama law. In addition, it shall waive all other rights which are normal incidents of joint ownership at common law. AEC's rights as joint owner shall be limited to those expressly stated in the sales contract and operating agreement.
9. AEC shall not have the right to assign, sublet, sell or otherwise dispose of the jointly owned property since to do so could place APCO at additional risk. In the event AEC desires to dispose of its interest in the plant, a mechanism will be developed to give APCO the right, at its election, to purchase AEC's interest in the plant, and establish the price for such transfer.
10. AEC shall indemnify APCO against the adverse impact on APCO arising from tax legislation, or interpretation of tax laws, which impact would arise because of the joint ownership arrangement, i.e., as a result of either the sales agreement or the operating agreement.

B. Operating Agreement:

APCO and AEC shall enter into an Operating Agreement for the operation by APCO of the jointly owned plant. The Operating Agreement shall grant AEC the right to receive its pro rata portion of the energy generated at the plant at the time such generation occurs; however, it shall provide complete and absolute authority in APCO to determine the total operations of the plant, without responsibility on the part of APCO to consult with, or seek agreement of, AEC as to the plant operations, its maintenance, the making of capital improvements, its level of operations, its cessation of operations or the timing or methods of its decommissioning. The Agreement shall provide for the payment, at a minimum, of the costs and fees set forth below.

1. Responsibility of APCO, as Operator, to AEC - Sharing of Costs - Allocation of Risk of Loss of Plant and Damage or Injury to Third Parties.

(a) AEC shall pay, in advance, a pro rata share of all costs associated with operating and maintaining the plant, making capital improvements and additions, acquiring nuclear fuel, participation in nuclear industry organizations determined by APCO to be in the interest of the plant, and for an allocation of general corporate expenses (including but not limited to administrative and general expenses and general plant costs). These obligations shall continue regardless of plant performance or periods of prolonged outage or permanent shutdown. AEC shall agree to accept the terms and conditions of, and agree to be bound by, all contracts associated with construction, operation and maintenance of the plant or the acquisition of nuclear fuel which APCO or others on APCO's behalf have entered into prior to a sale to AEC or which are entered into thereafter. The costs to be shared by AEC shall be those required by regulatory bodies or determined by APCO (in its sole judgment) to be desirable. APCO shall have no liability to AEC for costs of any nature associated with the decision to make such alterations or improvements or to incur such operating or maintenance expense. AEC shall contribute funds in advance from time to time, necessary to acquire nuclear fuel (or its ingredients) during the fuel cycle. Such payments shall be on a pro rata basis. AEC will not be granted title to the fuel or its ingredients but will have contract rights and obligations resulting from such payments.

(b) Fees for operating and maintaining the plant, shall be \$1.0 million per year, escalated each year based on an acceptable Government index. A fee shall also be assessed equal to 15% of AEC's pro rata share of all direct and indirect expenditures associated with the making of any capital improvements. A fee equal to ten percent (10%) of AEC's pro rata share of the annual fuel costs shall also be assessed. These

fees have been set on the assumption that APCO will have no responsibility to AEC for any loss associated with the plant, arising out of operations, maintenance, making of improvements or nuclear fuel acquisition activities.

- (c) AEC shall be responsible for the total cost of all incremental operating, maintenance, capital improvements or nuclear fuel acquisition activities which result from AEC's ownership interest and which would not have been incurred except for AEC's acquisition of an interest.
- (d) AEC shall defend and indemnify APCO for a pro rata portion of costs associated with third party claims arising out of operation of the plant by APCO and for all costs resulting from claims of third parties (such as, claims of AEC's members or customers) which would arise because of AEC's ownership of a portion of the plant.
- (e) Provision will be included to exclude liability on the part of APCO for losses or costs to AEC for conduct of APCO, its agents, contractors or employees even though such conduct is alleged or determined to be willful, wanton, reckless or merely negligent.
- (f) Provision will be included which will exclude, in any circumstance, liability of APCO to AEC for damages of any nature including those in the character of consequential, special, incidental or indirect damages.
- (g) AEC shall be responsible for a pro rata share of all costs associated with the decommissioning of the facilities and disposal of nuclear fuel in accordance with requirements of laws, regulations or mandates of regulatory bodies, and any other costs necessary or desirable, in APCO's sole judgment, for the restoration of the site at the time of the shut-down of the plant. Provisions shall be included in the Operating Agreement to assure that APCO does not incur any additional risk for decommissioning or nuclear fuel waste disposal associated with AEC's interest in the plant.

- (h) AEC shall be responsible for a pro rata share of all fines or penalties of any nature, under any law or regulation, associated with the operation, maintenance or decommissioning of the plant, including those imposed by NRC, EPA, other federal, state or local regulatory bodies, or by federal, state or local courts.
- (i) The Operating Agreement shall continue in effect until such time that (1) all decommissioning associated with the plant has been completed, (2) all liability for disposal of waste produced or created by the plant has terminated, and (3) the plant site has been returned to a condition acceptable to APCO after decommissioning.

2. Insurance - Liability and Property coverages.

- (a) APCO will procure insurance to the extent determined appropriate by APCO (from companies chosen by APCO and under standard policies for such purposes) to cover property damage and public liability (both general liability and nuclear energy hazard insurance). AEC shall bear its pro rata portion of such insurance costs. Such insurance may require AEC to become a member of one or more of the insurance pools in which APCO is a member, such as Nuclear Mutual Limited. APCO shall, in its sole judgment, determine the amount of deductible which will be maintained on insurance.
- (b) Mechanisms must be developed to protect against AEC's failure to come up with its pro rata portion of any self-insurance under public liability policies and the Price-Anderson Act.
- (c) Similar mechanisms shall be developed to protect against inability or failure of AEC to come up with any retrospective premium adjustments under insurance policies, deductible under property insurance or excess over property insurance necessary to cover entire loss.
- (d) In the event it is necessary for AEC to procure insurance associated with replacement power

costs during prolonged outage in order for APCO to be able to maintain such insurance without any increase in cost, then procurement of such insurance by AEC shall be a prerequisite.

3. Failure to Live up to Agreement - Definition and Consequences of Default.

(a) Events of default:

- (1) Failure to fund pro rata portion of capital expenditures for improvements, replacements, fuel, etc. Delay in funding that can result in delays in accomplishing the improvement of the plant or the purchase of fuel.
- (2) Failure to contribute to working capital fund with sufficient amounts necessary to cover obligations for expenses.
- (3) Failure to fund insurance under Price-Anderson.
- (4) Failure to provide pro rata share of any retrospective premium adjustments under insurance policies, deductible under property insurance or excess over property insurance necessary to cover entire loss.
- (5) Failure to indemnify as required.
- (6) Failure to make any other monetary payment when due under the Agreement.
- (7) Failure to abide by the requirements of regulatory bodies having jurisdiction over the plant.
- (8) Failure to provide adequate assurance of performance by AEC of future obligations where reasonable grounds for insecurity arise.

- (9) Disclosure of information which is proprietary to APCO, its suppliers, contractors or agents.
 - (10) Requirement by APCO, because of court decision, regulatory order or otherwise, to bear more than its pro rata share of the total cost or expense associated with the plant, or which increases APCO's risk, such as, refusal of a court to enforce AEC's obligation to reimburse APCO for fines and penalties of any nature.
 - (11) Delay by AEC in performance of any action required under the Agreement.
- (b) Range of Remedies for Default - Remedies Shall Be Cumulative and not Exclusive of Other Remedies Which May Be Provided by Law.
- (1) In any event of default by AEC, it shall be denied its pro rata share of capacity and energy from the plant during continuation of default. APCO shall have the right to sell or use energy from AEC's portion of the plant. AEC would buy replacement capacity and energy at APCO's incremental costs or obtain it from other sources.
 - (2) AEC would be obligated to pay interest on any monetary amount in default until the default is cured.
 - (3) AEC shall pay all incremental costs attributable to its default, such as, APCO's replacement power costs resulting from delay.
 - (4) If a default is not cured within 90 days, APCO would have option to purchase AEC's interest in the plant at AEC's cost less depreciation, less additional costs associated with AEC's default and less APCO's costs associated with transfer and any amounts owed by AEC to APCO. For defaults of the character described in Paragraph B.3(a)(10) above, no period of cure shall be allowed.

Mr. Charles R. Lowman
April 29, 1983
Page 11

- (5) In addition to, or in lieu of, right to purchase, APCO would have the right to collect amounts owed, in the past or in the future, by AEC under the Agreement from distribution cooperative members of AEC. Such entities shall enter into contracts which obligate these entities to assume liability for such amounts on a joint and several basis.
- (6) REA shall guarantee the contingent liabilities of AEC associated with its ownership interest in the nuclear plant and its responsibility for payment of costs and expenses under the Operating Agreement.
- (7) AEC's obligations under the Agreement shall be secured by a second mortgage on AEC's system.

We would note further that in view of our offer made in this letter, we are hereby withdrawing our offer made in 1974 to negotiate the sale of unit power to AEC from the nuclear plant.

Arrangements will be made for our meeting at 9:00 A.M. on May 24, 1983 in the Sixth Floor Conference Room at APCO's General Office Building. We would appreciate your advising us in advance of the representatives you expect to be attending.

Respectfully,



H. Allen Franklin

HAF/jw
Attachments

C O N F I D E N T I A L

EXHIBIT I

AEC PAYMENTS TO APCO AT CLOSING (a)
(Closing Assumed 6/30/83)
(In Thousands of Dollars)

1. Estimated Reasonable Value of the Plant (b)	2,965,000
2. APCO's Costs Related to the Plant (c)	2,430,047
3. Average of Items 1 and 2	2,697,524
4. Nuclear Fuel Costs (d)	<u>303,885</u>
5. Total for 100% of Units	<u>3,001,409</u>
6. Sub-Total to be Paid by AEC @ 5.95% Ownership Interest (e)	<u>178,584</u>
7. Adjustment: Transfer of Ownership Costs (f)	
8. Total to be Paid by AEC (Item 6 plus Item 7)	<u><u> </u></u>

NOTES:

- (a) Data to be revised and adjusted to actual closing date. Cost estimates rounded to nearest 1,000 dollars.
- (b) EBASCO Services, Incorporated estimate of reproduction cost less depreciation.
- (c) Details of these costs are on Exhibit I, page 2.
- (d) Details of these costs are on Exhibit I, page 3.
- (e) This price will be adjusted for any unforeseen adverse tax impacts.
- (f) Transfer of ownership costs include filing and recording fees, proration of certain taxes, proration of certain prepaid items, APCO cost of negotiating and implementing sales/operating agreements, etc. (to be determined based on actual transaction costs).

EXHIBIT I

APCO'S COSTS RELATED TO THE FARLEY NUCLEAR PLANT (a)
(Closing Assumed 6/30/83)
(In Thousands of Dollars)

Net Adjusted Investment @ 6/30/83	1,420,721
Capital costs during construction in excess of booked	463,328
Adjustment for Income Tax Effect (b)	245,656
Entitlement Fee (c)	170,071
Other adverse financial consequences associated with building Plant Farley	114,200
Construction Work in Progress	<u>16,071</u>
TOTAL	<u>2,430,047</u>

NOTES:

- a) Data to be revised and adjusted to actual closing date. Cost estimates rounded to nearest 1,000 dollars.
- b) The estimated income tax effect will be actualized to reflect any unforeseen adverse impact.
- c) "Entitlement Fee" is an amount to be paid by AEC in consideration of construction planning, construction management, plant design, labor supervision, site licensing, use of a valuable scarce site, and AEC's entitlement to the Company's contracts for major equipment.

EXHIBIT I

NUCLEAR FUEL COSTS (a)
(Closing Assumed 6/30/83)
(In Thousands of Dollars)

Net Adjusted Investment	78,119
Capital costs during fabrication in excess of booked	45,704
Adjustment for Income Tax Effect (b)	8,915
Construction Work in Progress	<u>171,147</u>
TOTAL	<u>303,885</u>

NOTES:

- (a) Data to be revised and adjusted to actual closing date. Cost estimates rounded to nearest 1,000 dollars.
- (b) The estimated income tax effect will be actualized to reflect any unforeseen adverse impact.

Alabama Power Company
600 North 13th Street
Post Office Box 2641
Birmingham, Alabama 35291
Telephone 205 250-1000



Alabama Power

JESSE S. VOGTLE
Executive Vice President

June 10, 1983

Mr. Charles R. Lowman
Alabama Electric Cooperative, Inc.
P. O. Box 650
Andalusia, Alabama 36420

Dear Mr. Lowman:

In our meeting of May 24, 1983, we agreed to provide Alabama Electric with certain material it requested to assist in the evaluation of the Company's April 29, 1983 proposal. We are enclosing that material, and are furnishing with copies of this letter, the same data to Southern Engineering and Volpe, Boskey and Lyons.

I wanted to take this opportunity to assure you of the good faith effort which was engaged in by the Company in developing its proposal. Mr. Rogers of Southern Engineering appeared to be questioning the effort and the proposal in the meeting. He, Mr. Parish and others representing Alabama Electric appeared to be operating under the impression that the August, 1981 license condition required Alabama Power to sell the prorata ownership interest in the plant at a price less than a prorata share of the cost of the plant. The suggestion was made that the price to be negotiated under the license condition should reflect what Alabama Electric might have invested had it been financing and owning a share of the plant from the outset of plant construction. This interpretation is completely unreasonable in light of the language of the license condition and contrary to the interest of Alabama Power's customers. The license condition states that any price negotiated between Alabama Power and Alabama Electric "...shall be sufficient to fairly reimburse [Alabama Power] for the proportionate share of its total costs related to the Units 1 and 2 including, but not limited to, all costs of construction, installation, ownership and licensing..." This condition clearly establishes a minimum basis for the sales price.

Moreover, the Eleventh Circuit viewed this drastic remedy as an instance where Alabama Power would be paid the "reasonable value" for the interest in the plant which would be conveyed. While we feel the Court was wrong in many respects, there is nothing in the Court's opinion evidencing that the statement acknowledging the requirement for payment of reasonable value was a confusion of the concept of "cost"

Mr. Charles R. Lowman
June 10, 1983

and "value". The Court's statement is consistent with traditional principles applicable to anti-trust remedies. Even the harsh remedy of divestiture in anti-trust suits does not require sale at original cost where original cost is less than the fair or reasonable value of an asset required to be sold. We reject Alabama Electric's suggestion that the Eleventh Circuit interpretation of the price component of the divestiture remedy was error.

Our offer was a sincere effort to value the asset to be conveyed to AEC in accordance with the principles which are applicable to the required divestiture in this case. We feel the principle which your representatives announced in the meeting, i.e., that the asset be conveyed below its cost, has no basis.

The other philosophical difference which surfaced in our discussions was that Alabama Electric expected Alabama Power to share in any additional burdens or increased costs which might arise because of AEC's participation. This is also a notion which we reject. Consistent with the provisions of the license condition, it is the position of Alabama Power that it should not be exposed to the risk of any additional costs arising out of the ownership interest to be conveyed to Alabama Electric. In this category of costs, we include not only dollars actually paid out but also exposures to future costs. Accordingly, we feel strongly that Alabama Electric must provide security against the risks of default on unfunded future costs, such as decommissioning costs.

Mr. Rogers stated he felt it was unreasonable for REA to be asked to guarantee Alabama Electric's obligation for such future costs since REA is merely AEC's banker. We don't feel that such characterization of the relationship between REA and Alabama Electric should preclude it from providing a reasonable guarantee. But for REA, AEC, with its lack of equity investment, could not borrow the money required to make the investment. Moreover, it is our understanding that in all past REA loans to AEC as well as future REA loan guarantees, REA will hold as security all the identifiable properties of AEC including after acquired assets. Were Alabama Electric to default on its obligations to pay such future costs and go into bankruptcy, its member-owners would provide little or no protection as equity owners. The secured creditor would wind

Mr. Charles R. Lowman
June 10, 1983

up with all of the assets of AEC. Alabama Power would then be left having to cover all of the cost of decommissioning, even that portion which should have been borne by Alabama Electric. It was indicated in the meeting by Alabama Electric representatives that Alabama Electric may have other means of providing security for these costs. We shall be interested in pursuing any suggestions in this regard which Alabama Electric wishes to propose.

We wanted to make these observations known to you before you develop your counter proposal which we expect to receive before our meeting in Atlanta on June 29, 1983. We shall be looking forward to seeing you then.

Very truly yours,

Jesse S. Vogtle

cc: D. Biard MacGineas, Esq.
Mr. Jeff Parish

DATA REQUEST ITEM 1

ALABAMA POWER COMPANY'S
DETERMINATION OF AEC
OWNERSHIP ENTITLEMENT IN
FARLEY NUCLEAR PLANT

The Atomic Safety and Licensing Appeal Board issued an allocation formula to determine the percentage of Farley Nuclear Plant to be sold to AEC based on the ratio of: (a) the aggregate coincident peak demand of all wholesale-for-resale members of AEC in Alabama during 1976 to, (b) the sum of the coincident peak demand of AEC and the territorial peak hour demand of the Company (excluding the peak hour demands imposed by members of AEC) in 1976.

The Company's determination of the AEC ownership entitlement pursuant to the order is 5.95%, based on the AEC and APCO peak loads which occurred on July 21 and July 26, respectively, as shown on Attachment A. APCO's peak demand includes interruptible load which was curtailed at the time of the Company's peak. SEPA preference customer load is excluded from the wholesale-for-resale customers of Alabama and the off-system members of AEC served by the Company. The Company considers the treatment of these components consistent with the licensing order for the following reasons:

- (1) In the Company's planning process, interruptible load has been historically regarded as a capacity resource. Reserves have been provided for this component just as for any other firm load.
- (2) The SEPA preference customer load is a contractual obligation to be supplied by SEPA to the various wholesale-for-resale customer of the Company with whom SEPA has contracted to sell capacity and energy. The SEPA capacity sold directly to AEC is not allocated specifically to AEC's on-system wholesale-for-resale customers and, therefore, is considered as a capacity resource.

The individual company demands, as shown on Attachment A, were developed using the following assumptions and data:

AEC's Load Component

The date of AEC's 1976 peak hour, the 60-minute peak demand, and the Florida and industrial load of AEC were taken from a letter to Mr. Jesse S. Vogtle from Mr. Charles R. Lowman dated June 4, 1982. These values were as follows:

Date: July 21, 1976 @ 6:00 p.m.
60 Minute Peak Demand: 243.9 MW
Florida and Industrial Load: 40.0 MW

AEC's off-system members' 60-minute peak hour demand was determined from APCO's load research data. This data was developed from magnetic tape recorders, indicating demand meters adjusted for the lack of the time element and estimates for those hours when the data was unavailable on the magnetic tapes. The load research data as shown on Attachment B has not been adjusted for SEPA preference customers allocations.

The SEPA preference customer allocation for APCO in 1976 was 98.3 MW. This was allocated in the following manner: 58.9 MW to Municipals served by APCO, 8.6 MW to Cooperatives not members of AEC and served by APCO, and 30.8 MW to Cooperative members of AEC and served by APCO.

The sum of the AEC 60-minute system peak demand minus the sum of the coincident demand of industrial loads and loads in Florida served by AEC plus the 60-minute off-system peak demand of members of AEC served by APCO minus the SEPA preference customer allocation to the off-system member of AEC equals the aggregate coincident peak demand of all wholesale-for-resale members of AEC in Alabama during 1976.

APCO's Load Component

The Company's 1976 60-minute peak demand occurred on July 26 at 1:00 p.m. The Company peak demand as shown on Attachment A includes 142.5 MW of interrupted load and 98.3 MW of SEPA preference customer allocation. The AEC off-system member load at the time of APCO's peak hour was determined from the Company's load research data. The quantities as shown on Attachment B include the SEPA preference customer allocation. The SEPA preference customer allocation to the municipals and cooperatives not members of AEC amounted to 67.5 MW in 1976 (58.9 MW plus 8.6 MW respectively).

The sum of the APCO 60-minute peak demand including SEPA preference customer allocation and interrupted load minus the AEC member off-system load in Alabama coincident with APCO's peak hour minus the SEPA preference customer allocation not associated with AEC equals the territorial peak hour demand of the company excluding the effects of members of AEC.

The allocation formula, developed by the Atomic Safety and Licensing Appeal Board, calculates that 5.95% of the Farley Nuclear Plant should be sold to AEC.

AEC'S LOAD COMPONENT

Peak Day Occurred on July 21, 1976 @ 6:00 p.m.

60-minute system peak demand	243.9 MW
Less calculated coincident demand of industrial load . . and load in Florida	(40.0)
	203.9 MW
60-minute off-system peak demand	184.0 MW
(Includes SEPA Preference Customer Allocation)	
Less SEPA Preference Customer Demand	(30.8)
	153.2 MW
Net Off-System Load	
	153.2 MW
 AEC'S WHOLESALE FOR RETAIL DEMAND IN ALABAMA (A) . .	357.1 MW

APCO'S LOAD COMPONENT

Peak Day Occurred on July 26, 1976 @ 1:00 p.m.

60-minute system peak demand including 98.3 MW SEPA . . . Allocation and 142.5 MW for Interruptible Load	5,880.5 MW
Less AEC member off-system load in Alabama	(173.3)
(Includes SEPA Preference Customer Allocation)	
Less remaining SEPA Preference Customer Allocation to . .	(67.5)
Municipals and Cooperatives not members of AEC	(67.5)
APCO ADJUSTED DEMAND (B)	5,639.7 MW

$$\% \text{ Purchase Allotment} = \frac{A}{A + B} \times 100$$

WHERE:

A = AEC's on-system and off-system wholesale demand in Alabama during AEC's peak hour in 1976

B = APCO's 1976 peak hour demand adjusted for the SEPA Preference Customer Allotment and the demands imposed by members of AEC on the APCO system

$$\% \text{ Purchase Allotment} = \frac{357.1}{357.1 + 5639.7} \times 100 = 5.95\%$$

SUMMARY OF AEC'S OFF-SYSTEM MEMBERS
LOAD ON APCO'S SYSTEM

<u>Cooperative</u>	<u>SEPA Allocation</u> kW	<u>July 21, 1976</u> <u>6:00 p.m.*</u> kW	<u>July 26, 1976</u> <u>1:00 p.m.*</u> kW
Baldwin County	5,596	40,740.10	36,521.90
Central Alabama ECI	6,175	35,656.00	34,572.90
Clarke-Washington EMC	2,484	6,711.00	6,353.60
Coosa Valley ECI	1,801	12,914.70	13,026.20
Dixie ECI	2,390	19,214.30	19,517.05
Pea River ECI	1,855	5,894.70	5,416.95
Pioneer ECI	3,500	17,952.57	17,133.40
Tallapoosa River ECI	3,775	22,510.15	21,759.35
Wiregrass ECI	<u>3,225</u>	<u>22,377.85</u>	<u>18,983.85</u>
TOTALS	30,801	183,971.77	173,285.20

*The loads are not reduced by SEPA preference customer allocations.

	SEPA Capacity Allocation	Load Research Data	
		July 26, 1976 1 PM	July 21, 1976 6 PM
	kW	kW	kW
Madwin County			
- Barnwell	528	3192.0	3469.2
- Crossroads	569	3852.0	4413.6
- Foley	2833	17640.1 (1)	19677.5 (1)
- Rosinton	456	3258.0	3567.6
- Silverhill	739	5431.2	6124.8
- Stapleton	<u>471</u>	<u>3148.6</u>	<u>3487.4</u>
Total	5,596	36,521.9	40,740.1
Central Alabama ECI			
- Bradford	279	1779.4	1822.8
- Enterprise	767	4309.2	4512.9
- Evergreen	323	1489.6	1741.6
- Friendship	258	1481.9	1595.3
- Maplesville	299	1913.8	1492.4
- Prattville	685	4181.7 (1)	4312.8 (1)
- Rockford	228	1498.0	1519.0
- Speigner	1149	4958.5 (1)	5113.9 (1)
- Statesville	283	1598.3 (1)	1648.4 (1)
- Stewartville	171	1052.2 (2)	1085.1 (2)
- Thorsby	478	2835.0	2790.9
- Union Grove	254	1392.3	1375.5
- Wallsboro	537	2956.8	3112.2
- Wetumpka	<u>464</u>	<u>3126.2</u>	<u>3533.6</u>
Total	6175	34,572.9	35,656.4
Washington EMC			
- Claiborne	194	444.8 (1)	469.8 (1)
- Coffeetown	654	1047.6	878.4
- Dry Forks	257	1226.4	1562.4
- Fulton	950	2628.0	2780.4
- Thomasville	<u>429</u>	<u>1006.8</u>	<u>1020.0</u>
Total	2,484	6,353.6	6,711.0
Valley ECI			
- Childersburg	87	602.5 (1)	597.3 (1)
- Eden	157	1277.5 (1)	1266.6 (1)
- Eureka	356	2454.9	2484.3
- Lincoln	301	2631.3	2660.7
- New London	290	1997.8	1961.4
- Ohatchee	126	917.0	947.1
- Stockdale	210	1080.9	985.5
- Talladega	<u>274</u>	<u>2064.3</u>	<u>2011.8</u>

	SEPA Capacity Allocation	Load Research Data			
		July 26, 1976	July 21, 1976		
		1 PM kW	6 PM kW		
Moxie ECI	- Arrowhead	328	2410.8	2578.8	
	- Halstead	486	4242.0	4452.0	
	- Legrand	206	1600.2	1817.2	
	- Notasulga	162	1240.05	1337.7	
	- Pintlalla	Cut-in Date 10-5-76 -			
	- Union Springs	565	4760.0	4723.6	
	- Woodley	461	3820.6	2926.0	
	- Wye Community	182	1443.4	1379.0	
	Total		2,390	19,517.05	19,214.3
	Ozark River ECI	- East Gate	874	2100.0	2228.1
- Eufaula		176	528.15	590.1	
- Newton		294	978.6	1052.1	
- Ozark		511	1810.2	2024.4	
Total		1,855	5,416.95	5,894.7	
Pioneer ECI	- Benton	470	1864.0 (1)	1953.2 (1)	
	- Braggs	209	967.2	697.2	
	- Camden	80	433.3 (1)	454.0 (1)	
	- Five Points	220	1047.2 (2)	1030.57	
	- Georgianna	554	2892.4	3302.6	
	- Gordonsville	218	977.9	945.0	
	- Greenville	1038	4971.6	5695.2	
	- Oak Hill	233	1177.2	1154.4	
	- Selma	478	2802.6 (2)	2720.4	
Total		3,500	17,133.4	17,952.57	

ATTACHMENT B

Page 4 of 4

	SEPA Capacity Allocation kW	Load Research Data	
		July 26, 1976	July 21, 1976
		1 PM kW	6 PM kW
Tallapoosa River ECI - Backwater	243	1893.5	2004.8
- Brown-Uchee	328	2365.9 (2)	2450.5 (2)
- Cheana Mtn.	60	237.5 (1)	246.0 (1)
- Cottonton	138	913.3 (1)	919.1 (1)
- Elias	78	365.4	400.4
- Ft. Mitchell	433	2879.1	3282.3
- Hurtsboro	52	343.8 (1)	356.1 (1)
- LaFayette	210	503.8 (2)	521.8
- Mellow Valley	466	3405.15	3255.0
- New Site		Cut-in-date	10-19-76
- Opelika	385	1800.75	1936.2
- Penton	416	1340.85	1380.75
- Providence	292	2325.4	2335.2
- Pyriton	86	410.4	406.8
- Randolph Cty.	170	852.7 (3)	883.0
- Sturkie	327	1654.8	1648.5
- Tallapoosa River	<u>91</u>	<u>467.0 (1)</u>	<u>483.7 (1)</u>
Total	3,775	21,759.35	22,510.15
Wiregrass ECI - Ashford	569	3582.6	4048.8
- Bay Springs	387	2196.6	2591.4
- Burch Pond	204	1312.2 (1)	1546.8 (1)
- Columbia	366	1881.6	2186.8
- Cottonwood	334	2150.4	2557.8
- Hartford	339	1287.3	1596.0
- Limestone Ck.	710	5064.3 (1)	5969.7 (1)
- Slocomb	<u>316</u>	<u>1508.85</u>	<u>1880.55</u>
Total	3,225	18,983.85	22,377.85

Indicating meter installed during these periods of record. Estimated quantity shown.

magnetic tape data had an error flag; therefore, the data was estimated.

The station was out of service the previous hour; therefore, this hour's reading may be a partial hour.

DATA REQUEST ITEM 2.

The Plant site covers 1850 acres. Approximately 10 acres are included in the Security Protected Area referred to in Paragraph A1 of the Company's April 29, 1983 letter.

Attached is a map showing the area referred to.

DOCUMENT/ PAGE PULLED

ANO. 8407030301

NO. OF PAGES 1

REASON:

PAGE ILLEGIBLE:

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DATA REQUEST ITEM 3

In regard to contracts with a remaining value in excess of \$20,000,000, the following list provides the vendor name and type of contract:

1. Getty Oil Company, U_3O_8 supply
2. Westinghouse Electric Corporation, fuel fabrication
3. U. S. Department of Energy, UF_6 enrichment services

We would also note that the Company has continuing cost based contracts with Daniel Construction Company and its subsidiary, Davcon.

TYPE POLICY	INSURER*	POLICY	POLICY PERIOD	PREMIUM	PAYABLE	COVERAGE LIMIT	DEDUCTIBLE	PERILS COVERED
LIABILITY	NELIA MAELO	NF236 NF93	01/01/83-84 01/01/83-84	\$335,633.13 97,441.87	Annually Annually	\$126MM 36MM	None None	Bodily injury and property damage by nuclear energy hazard.
SUPPLIERS & TRANSPORTERS	NELIA MAELO	NS386 MS86	01/01/83-84 01/01/83-84	\$14,660.16 4,256.18	Annually Annually	\$124MM 36MM	None None	Bodily injury and property damage by nuclear energy hazard off site.
SECONDARY FINANCIAL PROTECTION	NELIA MAELO	M62, N73 M62, N73	01/01/83-84 01/01/83-84	\$5,300 \$2,700	Annually Annually	\$2.25MM 7.75MM	None None	Payment of retrospective premium.
OPERATING FACILITY (PROPERTY)	NHL	P83-001	04/01/83-84	\$3,862,702 (plus 8% tax of \$360,976.16 on net amount)	Annually	\$500K.	\$1MM (each unit & each turbine generator)	All risks of direct physical loss except those excluded by the policy.
TRANSIT	NHL	T83-062	04/01/83-84	\$500 (provisional) premium plus 8% tax of \$40	Annually	\$8.82MM	None	Nuclear transit.
OTHER INSPECTION	HSB	AT-8425261-06	04/01/83-84	\$2,475 (a-post premium)	Quarterly	\$25,000	\$25,000	Inspection of certain pressurized vessels.
PRICE-COVERSON ACT	NRC	NFF-2 NF7-c	07/20/83-84 07/20/83-84	\$1,000 (Unit 1) \$1,000 (Unit 2)	Annually Annually	\$560MM	None	Nuclear hazards.
EXTRA EXPENSE (UNITS 1 & 2)	NEIL 1	E82-001	09/15/82-83	\$1,524,674/unit (plus 8% tax of \$121,973.52/unit & 1% reserve premium paid at inception of each policy)	Annually	\$195MM	26-week waiting period	Extra expense incurred in obtaining replacement power during prolonged accidental outages of nuclear power generation units as a result of radioactive contamination or all other risks of direct physical loss, except as excluded.
EXCESS PROPERTY	NEIL 2	X82-001	11/15/82-83	\$1,058,034 (plus 8% tax of \$84,642.72 & 1% reserve premium paid at inception of each policy)	Annually	\$500MM x \$500MM	\$500MM	All risks of direct physical loss except those excluded by the policy.
EXCESS PROPERTY	ANI MAELO	NXB2-021 NXTA-1367	11/15/82-83 11/15/82-83	\$199,542	Annually	\$68MM	\$500MM	All risks of direct physical loss except those excluded by the policy.
EXCESS PROPERTY	AIG	EMA 940-1524	11/15/82-83	\$106,560	Annually	\$33MM x \$500MM \$12MM x \$1MM	\$500MM	All risks of direct physical loss except those excluded by the policy.

*Abbreviations are as follows:

NELIA - Nuclear Energy Liability Insurance Association (ANI)
NEELB - Mutual Atomic Energy Liability Underwriters (ANI)
NML - Nuclear Mutual Limited
HSB - Hartford Steam Boiler Inspection and Insurance Company
NRC - Nuclear Regulatory Commission of the U.S. Government
NEIL 1 & 2 - Nuclear Electric Insurance Limited
ANI - American Nuclear Insurers
AIG - American International Group

Information is as of 04/01/83
Prepared by Tax and Insurance
05/25/83

IV APPLICATION OF POLICY This policy applies only to bodily injury or property damage (1) which is caused during the policy period by the nuclear energy hazard and (2) which is discovered and for which

written claim is made against the insured, not later than two years after the end of the policy period.

EXCLUSIONS

This policy does not apply:

- (a) to any obligation for which the insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;
- (b) except with respect to liability of another assumed by the insured under contract, to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured; but this exclusion does not apply to bodily injury to any person who is not employed at and in connection with the facility if the insured has complied with the requirements of the applicable workmen's compensation or occupational disease law respecting the securing of compensation benefits thereunder to his employees;
- (c) to liability assumed by the insured under contract, other than an assumption in a contract with another of the liability of any person or organization which would be imposed by law on such person or organization in the absence of an express assumption of liability;
- (d) to bodily injury or property damage due to the manufacturing, handling or use at the location designated in Item 3 of the declara-

tions, in time of peace or war, of any nuclear weapon or other instrument of war utilizing special nuclear material or byproduct material;

- (e) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
- (f) to property damage to any property at the location designated in Item 3 of the declarations, other than aircraft, watercraft or vehicles licensed for highway use, provided such aircraft, watercraft or vehicles are not used in connection with the operation of the facility;
- (g) to property damage to nuclear material in the course of transportation to or from the facility including handling or storage incidental thereto;
- (h) under Coverage B, to property damage due to neglect of the insured to use all reasonable means to save and preserve the property after knowledge of the occurrence resulting in such property damage.

CONDITIONS

1 PREMIUM The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year shall be stated in a written notice given by the companies to the named insured as soon as practicable prior to or after the beginning of such year.

Such advance premiums are estimated premiums only. As soon as practicable after each December 31 and after the termination of this policy, the earned premium for the preceding premium period shall be computed in accordance with the companies' rules, rates, rating plans, premiums and minimum premiums applicable to this insurance. If the earned premium thus computed for any premium period exceeds the advance premium previously paid for such period, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the unearned portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

2 INSPECTION; SUSPENSION The companies shall be permitted to inspect the facility and to examine the insured's books and records at any time, as far as they relate to the subject matter of this insurance.

If a representative of the companies discovers a condition which he believes to be unduly dangerous with respect to the nuclear energy hazard, a representative of the companies may request that such condition be corrected without delay. In the event of non-compliance with such request, a representative of the companies may, by notice to the named insured, to any other person or organization considered by the companies to be responsible for the continuance of such dangerous condition, and to the United States Atomic Energy Commission, suspend the insurance with respect to the named insured and such other person or organization effective 12:00 midnight of the next business day of such Commission following the date that such Commission receives such notice. The period of such suspension shall terminate as of the time stated in a written notice from the companies to the named insured and to each such person or organization that such condition has been corrected.

3 LIMIT OF LIABILITY; TERMINATION OF POLICY UPON EXHAUSTION OF LIMIT Regardless of the number of persons and organizations who are insureds under this policy, and regardless of the number of claims made and suits brought against any or all insureds because of one or more occurrences resulting in bodily injury or prop-

erty damage caused during the policy period by the nuclear energy hazard, the limit of the companies' liability stated in the declarations is the total liability of the companies for their obligations under this policy and the expenses incurred by the companies in connection with such obligations, including

- (a) payments in settlement of claims and in satisfaction of judgments against the insureds for damages because of bodily injury or property damage, payments made under parts (2), (3) and (4) of Coverage A and payments made in settlement of claims under Coverages B and C;
- (b) payments for expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit, including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;
- (c) payments for expenses incurred by the companies in investigating an occurrence resulting in bodily injury or property damage or in minimizing its effects.

Each payment made by the companies in discharge of their obligations under this policy or for expenses incurred in connection with such obligations shall reduce by the amount of such payment the limit of the companies' liability under this policy.

If, during the policy period or subsequent thereto, the total of such payments made by the companies shall exhaust the limit of the companies' liability under this policy, all liability and obligations of the companies under this policy shall thereupon terminate and shall be conclusively presumed to have been discharged. This policy, if not theretofore canceled, shall thereupon automatically terminate.

Regardless of the number of years this policy shall continue in force and the number of premiums which shall be payable or paid, the limit of the companies' liability stated in the declarations shall not be cumulative from year to year.

LIMITATION OF LIABILITY; COMMON OCCURRENCE Any occurrence or series of occurrences resulting in bodily injury or property damage arising out of the radioactive, toxic, explosive or other hazardous properties of

- (a) nuclear material discharged or dispersed from the facility over a period of days, weeks, months or longer and also arising out of such properties of other nuclear material so discharged or dispersed from one or more other nuclear facilities insured by companies under a Nuclear Energy Liability Policy (Facility Form), or
- (b) source material, special nuclear material, spent fuel or waste in the

Act of 1954, or any law amendatory thereof, with respect to any activities or operations conducted thereat;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of nuclear material, but only if

- (1) the nuclear material is at the facility or has been discharged or dispersed therefrom without intent to relinquish possession or custody thereof to any person or organization, or
- (2) the nuclear material is in an insured shipment which is (a) in the course of transportation, including handling and temporary storage incidental thereto, within the territorial limits of the United States of America, its territories or possessions, Puerto Rico or the Canal Zone and (b) away from any other nuclear facility;

This policy does not apply:

- (a) to any obligation for which the insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;
- (b) except with respect to liability of another assumed by the insured under contract, to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured; but this exclusion does not apply to bodily injury to any person who is not employed at and in connection with the facility if the insured has complied with the requirements of the applicable workmen's compensation or occupational disease law respecting the securing of compensation benefits thereunder to his employees;
- (c) to liability assumed by the insured under contract, other than an assumption in a contract with another of the liability of any person or organization which would be imposed by law on such person or organization in the absence of an express assumption of liability;
- (d) bodily injury or property damage due to the manufacturing,

"insured shipment" means a shipment of source material, special nuclear material, spent fuel or waste, herein called "material," (1) to the facility from a nuclear facility owned by the United States of America, but only if the transportation of the material is not by predetermination to be interrupted by the removal of the material from a transporting conveyance for any purpose other than the continuation of its transportation, or (2) from the facility to any other location except an indemnified nuclear facility, but only until the material is removed from a transporting conveyance for any purpose other than the continuation of its transportation.

APPLICATION OF POLICY This policy applies only to bodily injury or property damage (1) which is caused during the policy period by the nuclear energy hazard and (2) which is discovered and for which written claim is made against the insured, not later than two years after the end of the policy period.

IV

EXCLUSIONS

handling or use at the location designated in Item 3 of the declarations, in time of peace or war, of any nuclear weapon or other instrument of war utilizing special nuclear material or byproduct material;

- (e) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
- (f) to property damage to any property at the location designated in Item 3 of the declarations, other than aircraft, watercraft or vehicles licensed for highway use, provided such aircraft, watercraft or vehicles are not used in connection with the operation of the facility;
- (g) to property damage to nuclear material in the course of transportation to or from the facility including handling or storage incidental thereto;
- (h) under Coverage B, to property damage due to neglect of the insured to use all reasonable means to save and preserve the property after knowledge of the occurrence resulting in such property damage.

CONDITIONS

1 PREMIUM The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year shall be stated in a written notice given by the companies to the named insured as soon as practicable prior to or after the beginning of such year.

Such advance premiums are estimated premiums only. As soon as practicable after each December 31 and after the termination of this policy, the earned premium for the preceding premium period shall be computed in accordance with the companies' rules, rates, rating plans, premiums and minimum premiums applicable to this insurance. If the earned premium thus computed for any premium period exceeds the advance premium previously paid for such period, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the unearned portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

2 INSPECTION; SUSPENSION The companies shall be permitted to inspect the facility and to examine the insured's books and records at any time, as far as they relate to the subject matter of this insurance.

If a representative of the companies discovers a condition which he believes to be unduly dangerous with respect to the nuclear energy hazard, a representative of the companies may request that such condition be corrected without delay. In the event of non-compliance with such request, a representative of the companies may, by notice to the named insured, to any other person or organization considered by the companies to be responsible for the continuation of such dangerous condition, and to the United States

Atomic Energy Commission, suspend the insurance with respect to the named insured and such other person or organization effective 12:00 midnight of the next business day of such Commission following the date that such Commission receives such notice. The period of such suspension shall terminate as of the time stated in a written notice from the companies to the named insured and to each such person or organization that such condition has been corrected.

LIMIT OF LIABILITY; TERMINATION OF POLICY UPON EXHAUSTION OF LIMIT Regardless of the number of persons and organizations who are insureds under this policy, and regardless of the number of claims made and suits brought against any or all insureds because of one or more occurrences resulting in bodily injury or property damage caused during the policy period by the nuclear energy hazard, the limit of the companies' liability stated in the declarations is the total liability of the companies for their obligations under this policy and the expenses incurred by the companies in connection with such obligations, including

- (a) payments in settlement of claims and in satisfaction of judgments against the insureds for damages because of bodily injury or property damage, payments made under parts (2), (3) and (4) of Coverage A and payments made in settlement of claims under Coverages B and C;
- (b) payments for expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit, including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;
- (c) payments for expenses incurred by the companies in investigating an occurrence resulting in bodily injury or property damage or in minimizing its effects.

Each payment made by the companies in discharge of their obligations under this policy or for expenses incurred in connection with such obligations shall reduce by the amount of such payment the limit of the companies' liability under this policy.

3

NUCLEAR ENERGY LIABILITY POLICY

(SUPPLIER'S and TRANSPORTER'S FORM)

The undersigned members of Nuclear Energy Liability Insurance Association, hereinafter called the "companies," each for itself, severally and not jointly, and in the respective proportions hereinafter set forth, agree with the insured, named in the declarations made a part hereof, in consideration of the premium and in reliance upon the statements in the declarations and subject to the limit of liability, exclusions, conditions and other terms of this policy:

INSURING AGREEMENTS

I BODILY INJURY AND PROPERTY DAMAGE LIABILITY

To pay on behalf of the insured:

- A. all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage caused by the nuclear energy hazard, and the companies shall defend any suit against the insured alleging such bodily injury or property damage and seeking damages which are payable under the terms of this policy; but the companies may make such investigation, negotiation and settlement of any claim or suit as they deem expedient;
- B. costs taxed against the insured in any such suit and interest on any judgment therein;
- C. premiums on appeal bonds and on bonds to release attachments in any such suit, but without obligation to apply for or furnish such bonds;
- D. reasonable expenses, other than loss of earnings, incurred by the insured at the companies' request.

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in any nuclear reactor;

"waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (1) or (2) thereof;

"radioactive isotope" means any byproduct material except such material (1) contained in spent fuel or waste, or (2) discharged or dispersed from any nuclear facility;

"nuclear facility" means "the facility" as defined in any Nuclear Energy Liability Policy (Facility Form) issued by the companies or by Mutual Atomic Energy Liability Underwriters. The term "nuclear facility" also means

- (1) any nuclear reactor,
- (2) any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing spent fuel, or (c) handling, processing, or packaging waste,
- (3) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (4) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of nuclear material;

"contract as defined herein" means (1) if in writing, a lease of premises, easement agreement, agreement required by municipal ordinance, sidetrack agreement, or elevator or escalator maintenance agreement or (2) any written contract designated in Item 6 of the declarations.

APPLICATION OF POLICY This policy applies only to bodily injury or property damage (1) which is caused during the policy period by the nuclear energy hazard and (2) which is discovered and for which written claim is made against the insured, not later than two years after the end of the policy period.

IV

II DEFINITION OF INSURED The unqualified word "insured" includes the named insured and also includes any employee, officer, director or stockholder thereof while acting within the scope of his duties as such. If the named insured is a partnership, the unqualified word "insured" also includes any partner therein, but only with respect to his liability as such.

This insurance does not apply to any employee, as insured, with respect to bodily injury to another employee of the same employer arising out of and in the course of his employment.

subject to Condition 3 and the other provisions of this policy, the insurance applies separately to each insured against whom claim is made or suit is brought.

I DEFINITIONS Wherever used in this policy:

"bodily injury" means bodily injury, sickness or disease, including death resulting therefrom, sustained by any person;

"property damage" means physical injury to or destruction or radioactive contamination of property, and loss of use of property so injured, destroyed or contaminated, and loss of use of property while evacuated or withdrawn from use because possibly so contaminated or because of imminent danger of such contamination;

"nuclear material" means source material, special nuclear material or byproduct material;

"source material," "special nuclear material," and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof;

EXCLUSIONS

This policy does not apply:

- (a) to any obligation for which the insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;
- (b) except with respect to liability of another assumed by the insured under a contract as defined herein, to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured;
- (c) to liability assumed by the insured under any contract or agreement, other than (1) an assumption in a contract as defined herein of the liability of any person or organization which would be imposed by law on such person or organization in the absence of an express assumption of liability or (2) a warranty of materials, parts or equipment;
- (d) to bodily injury or property damage due to the manufacturing, handling, transportation, distribution or use by or on behalf of the named insured, in time of peace or war, of any nuclear weapon or other instrument of war utilizing special nuclear material or byproduct material, but this exclusion does not apply to watercraft until delivered to and accepted by the purchaser or owner thereof;

- (e) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
- (f) to property damage to any nuclear facility or any property thereof arising out of the possession, handling, use, storage or disposal of nuclear material at such nuclear facility, but this exclusion does not apply to aircraft, watercraft or vehicles licensed for highway use, provided such aircraft, watercraft or vehicle are not used in connection with the operation of such nuclear facility;
- (g) to property damage to nuclear material in the course of transportation by or on behalf of the named insured, including handling or storage incidental thereto;
- (h) to bodily injury or property damage arising out of
 - (1) the possession, transportation, handling, use, storage or disposal, outside the territorial limits of the United States of America, its territories or possessions, Puerto Rico or the Canal Zone, of nuclear material;
 - (2) or resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material contained in, or discharged or dispersed from, a nuclear reactor installed in any ship or vessel with respect to which a Nuclear Energy Li-

bility Policy (Marine Form) has been issued by the companies or by Mutual Atomic Energy Liability Underwriters;

- (3) the possession, handling, use, storage or disposal of nuclear material at any nuclear facility owned or operated by the named insured;
- (4) nuclear material in the course of transportation, including handling or temporary storage incidental thereto, (a) to a nuclear facility owned or operated by the named insured from any other location, provided such transportation of such material from such other location is not by predetermination to be interrupted by the removal of such material from a transporting conveyance for any purpose other than the continuation of such transportation to such nuclear facility, or (b) from a nuclear facility owned or operated by the named

insured to any other location, provided such transportation of such material shall be deemed to end when such material is removed from a transporting conveyance for any purpose other than continuation of such transportation;

- (5) the disposal of waste;
 - (6) any radioactive isotope while away from any nuclear facility;
- (i) to bodily injury or property damage with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

CONDITIONS

1 PREMIUM The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year shall be stated in a written notice given by the companies to the named insured as soon as practicable prior to or after the beginning of such year.

Such advance premiums are estimated premiums only. As soon as practicable after each December 31 and after the termination of this policy, the earned premium for the preceding premium period shall be computed in accordance with the companies' rules, rates, rating plans, premiums and minimum premiums applicable to this insurance. If the earned premium thus computed for any premium period exceeds the advance premium previously paid for such period, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the unearned portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

INSPECTION; SUSPENSION The companies shall be permitted to inspect the insured's premises and operations and to examine and audit the insured's books and records at any time, as far as they relate to the subject matter of this insurance.

If a representative of the companies discovers a condition which he believes to be unduly dangerous with respect to the nuclear energy hazard and which is within the control of the insured, a representative of the companies may request that such condition be corrected without delay. In the event of non-compliance with such request, a representative of the companies may, by written notice to the named insured, immediately suspend the insurance with respect to such condition. The period of such suspension shall terminate as of the time stated in a written notice from the companies to the named insured that such condition has been corrected.

3 LIMIT OF LIABILITY; TERMINATION OF POLICY UPON EXHAUSTION OF LIMIT Regardless of the number of persons and organizations who are insureds under this policy, and regardless of the number of claims made and suits brought against any or all insureds because of one or more occurrences resulting in bodily injury or property damage caused during the policy period by the nuclear energy hazard, the limit of the companies' liability stated in the declarations is the total liability of the companies for their obligations under this policy and the expenses incurred by the companies in connection with such obligations, including

- (a) payments in settlement of claims and in satisfaction of judgments against the insureds for damages because of bodily injury or property damage and payments made under parts B, C and D of Insuring Agreement 1;
- (b) payments for expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit, including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;
- (c) payments for expenses incurred by the companies in investigating an occurrence resulting in bodily injury or property damage or in minimizing its effects.

Each payment made by the companies in discharge of their obligations under this policy or for expenses incurred in connection with such obligations shall reduce by the amount of such payment the limit of the companies' liability under this policy.

If, during the policy period or subsequent thereto, the total of such

payments made by the companies shall exhaust the limit of the companies' liability under this policy, all liability and obligations of the companies under this policy shall thereupon terminate and shall be conclusively presumed to have been discharged. This policy, if not theretofore canceled, shall thereupon automatically terminate.

Regardless of the number of years this policy shall continue in force and the number of premiums which shall be payable or paid, the limit of the companies' liability stated in the declarations shall not be cumulative from year to year.

LIMITATION OF LIABILITY; MULTIPLE POLICIES With respect to any occurrence or series of occurrences for which insurance is afforded under this policy and for which insurance (a) is afforded to any person or organization, whether or not an insured under this policy, under any other Nuclear Energy Liability Policy issued by the companies, or (b) would be afforded under any other such policy but for its termination upon exhaustion of its limit of liability

- (1) the total aggregate liability of the companies under all Nuclear Energy Liability Policies (Supplier's and Transporter's Form), including this policy, affording insurance for such occurrence or series of occurrences shall be the sum of the limits of liability of all such policies, the limit of liability of each such policy being as determined by Condition 3 thereof, but in no event shall such total aggregate liability of the companies be greater than the amount by which \$46,500,000 exceeds the sum of the limits of liability stated in the declarations of all Nuclear Energy Liability Policies (Facility Form) issued by the companies and affording insurance for such occurrence or series of occurrences, provided each such Nuclear Energy Liability Policy (Facility Form) issued by the companies shall, solely for the purpose of computing the total aggregate liability of the companies, be deemed to be in effect notwithstanding it has terminated upon exhaustion of its limit of liability; and
- (2) if in the performance of the companies' obligations with respect to such occurrence or series of occurrences and in payment for expenses incurred in connection with such obligations the total of the payments made by the companies under any Nuclear Energy Liability Policy or Policies (Supplier's and Transporter's Form) shall exhaust such total aggregate liability of the companies, all liability and obligations of the companies under this policy with respect to such occurrence or series of occurrences shall thereupon terminate and shall be conclusively presumed to have been discharged, whether or not any of such payments have been charged against this policy.

The provisions of this condition shall not operate to increase the limit of the companies' liability under this policy.

NOTICE OF OCCURRENCE, CLAIM OR SUIT In the event of bodily injury or property damage to which this policy applies or of an occurrence which may give rise to claims therefor, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to Nuclear Energy Liability Insurance Association or the companies as soon as practicable. If claim is made or suit is brought against the insured, he shall immediately forward to Nuclear Energy Liability Insurance Association or the companies every demand, notice, summons or other process received by him or his representative.

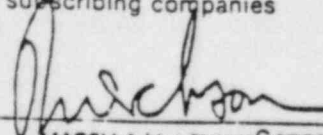
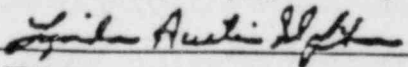
ASSISTANCE AND COOPERATION OF THE INSURED The insured shall cooperate with the companies and, upon the companies' request, attend hearings and trials and assist in making settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The insured shall not, except at his own cost, make any payment, assume any obligation or incur any expense.

Nuclear Energy Liability Insurance
NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

AMENDMENT OF EXCLUSION (h)
(Supplier's and Transporter's Form)

It is agreed that Division (1) of Exclusion (h) is amended to read:

- (1) the possession, transportation, handling, use, storage or disposal of nuclear material outside the territorial limits of the United States of America, its territories or possessions, or Puerto Rico;

Effective Date of this Endorsement January 1, 1982 To form a part of Policy No. NS-386
12:01 A.M. Standard Time
Issued to SOUTHERN COMPANY SERVICES, INC.
Date of Issue December 17, 1981
For the subscribing companies
By 
MARSH & McLENNAN, General Manager
Countersigned by 
3340 PEACHTREE RD., N.E.

Endorsement No 10

EXCLUSIONS

This policy does not apply:

- (a) to any obligation for which the insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;
- (b) except with respect to liability of another assumed by the insured under a contract as defined herein, to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured;
- (c) to liability assumed by the insured under any contract or agreement, other than (1) an assumption in a contract as defined herein of the liability of any person or organization which would be imposed by law on such person or organization in the absence of an express assumption of liability or (2) a warranty of materials, parts or equipment;
- (d) to bodily injury or property damage due to the manufacturing, handling, transportation, distribution or use by or on behalf of the named insured, in time of peace or war, of any nuclear weapon or other instrument of war utilizing special nuclear material or byproduct material; but this exclusion does not apply to watercraft until delivered to and accepted by the purchaser or owner thereof;
- (e) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
- (f) to property damage to any nuclear facility or any property thereat arising out of the possession, handling, use, storage or disposal of nuclear material at such nuclear facility, but this exclusion does not apply to aircraft, watercraft or vehicles licensed for highway use, provided such aircraft, watercraft or vehicles are not used in connection with the operation of such nuclear facility;
- (g) to property damage to nuclear material in the course of transportation by or on behalf of the named insured, including handling or storage incidental thereto;
- (h) to bodily injury or property damage arising out of
 - (1) the possession, transportation, handling, use, storage or disposal, outside the territorial limits of the United States of

- America, its territories or possessions, Puerto Rico or the Canal Zone, of nuclear material;
- (2) or resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material contained in, or discharged or dispersed from, a nuclear reactor installed in any ship or vessel with respect to which a Nuclear Energy Liability Policy (Marine Form) has been issued by the companies or by Nuclear Energy Liability Insurance Association;
- (3) the possession, handling, use, storage or disposal of nuclear material at any nuclear facility owned or operated by the named insured;
- (4) nuclear material in the course of transportation, including handling or temporary storage incidental thereto, (a) to a nuclear facility owned or operated by the named insured from any other location, provided such transportation of such material from such other location is not by predetermination to be interrupted by the removal of such material from a transporting conveyance for any purpose other than the continuation of such transportation to such nuclear facility, or (b) from a nuclear facility owned or operated by the named insured to any other location, provided such transportation of such material shall be deemed to end when such material is removed from a transporting conveyance for any purpose other than continuation of such transportation;
- (5) the disposal of waste;
- (6) any radioactive isotope while away from any nuclear facility;
- (i) to bodily injury or property damage with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

CONDITIONS

PREMIUM The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year shall be stated in a written notice given by the companies to the named insured as soon as practicable prior to or after the beginning of such year.

Such advance premiums are estimated premiums only. As soon as practicable after each December 31 and after the termination of this policy, the earned premium for the preceding premium period shall be computed in accordance with the companies' rules, rates, rating plans, premiums and minimum premiums applicable to this insurance. If the earned premium thus computed for any premium period exceeds the advance premium previously paid for such period, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the unearned portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

INSPECTION; SUSPENSION The companies shall be permitted to inspect the insured's premises and operations and to examine and audit the insured's books and records at any time, as far as they relate to the subject matter of this insurance.

If a representative of the companies discovers a condition which appears to be unduly dangerous with respect to the nuclear energy hazard and which is within the control of the insured, a representative of the companies may request that such condition be corrected without delay. In the event of non-compliance with such request, a representative of the companies may, by written notice to the named insured, immediately suspend the insurance with respect to such condition. The period of such suspension shall terminate as of the time stated in a written notice from the companies to the named insured that such condition has been corrected.

LIMIT OF LIABILITY; TERMINATION OF POLICY UPON EXHAUSTION OF LIMIT Regardless of the number of persons and organizations who are insureds under this policy, and regardless of the number of claims made and suits brought against any or all insureds because of one or more occurrences resulting in bodily injury or property damage caused during the policy period by the nuclear energy hazard, the limit of the companies' liability stated in the declarations is the total liability of the companies for their obligations under this policy and the expenses incurred by the companies in connection with such obligations, including

- (a) payments in settlement of claims and in satisfaction of judgments against the insureds for damages because of bodily injury or property damage and payments made under parts B, C and D of Insuring Agreement 1;
- (b) payments for expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit, including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;
- (c) payments for expenses incurred by the companies in investigating an occurrence resulting in bodily injury or property damage or in minimizing its effects.

Each payment made by the companies in discharge of their obligations under this policy or for expenses incurred in connection with such obligations shall reduce by the amount of such payment the limit of the companies' liability under this policy.

If, during the policy period or subsequent thereto, the total of such payments made by the companies shall exhaust the limit of the companies' liability under this policy, all liability and obligations of the companies under this policy shall thereupon terminate and shall be conclusively presumed to have been discharged. This policy, if not theretofore canceled, shall thereupon automatically terminate.

Regardless of the number of years this policy shall continue in force and the number of premiums which shall be paid thereon, the limit of the companies' liability stated in the declarations shall not be cumulative from year to year.

NUCLEAR ENERGY LIABILITY INSURANCE

MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

Amendment of Exclusion (d) Endorsement
Nuclear Energy Liability Policy (Supplier's and Transporter's Form)

It is agreed that:

- (1) Exclusion (d) is amended to read as follows:
 - (d) To bodily injury or property damage arising, directly or indirectly, out of an explosion, however caused, of an atomic weapon.
- (2) The term "atomic weapon" has the meaning given it in the Atomic Energy Act of 1954, or in any law amendatory thereof.

Effective Date of this Endorsement October 11, 1980 To form a part of Policy No. MS-86

Issued to Southern Company Services, Inc.

Date of Issue February 4, 1981

For the Subscribing Companies

MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS
By J. M. O'Connor JAMES S. KEMPER & COMPANY
SOUTHEAST, INC.
1835 PEACHTREE STREET, N.E. / SUITE 200
ATLANTA, GEORGIA

Endorsement No. 4
NE 23

Countersigned by G. J. Matthews
AUTHORIZED REPRESENTATIVE

agreed to provide insurance, or for which the Insured(s) are liable, all
with the such property is situated at a location specified herein; such
loss, however, shall be adjusted with and payable to the Member
Insured(s) unless otherwise provided in the Declarations.

VIII. REMOVAL FROM PREMISES

If property covered hereunder is necessarily removed from any
location specified in the Declarations for preservation from imminent
physical damage, this Policy also covers such property, for a period of
thirty (30) business days, during removal, at any place to which such
property has been removed, and during return; provided, however, this
provision does not apply to loss by radioactive contamination. The
Member Insured(s) shall notify the Insurer of any such removal within ten
(10) business days after its commencement.

IX. EXCLUSIONS

This Policy does not insure against loss by:

- (1) gradual accumulation of radioactive contamination;
- (2) radioactive contamination at any location specified in the
Declarations, resulting from matter released from any source
outside the premises of that location, but this exclusion shall
not apply to radioactive contamination resulting from matter
released from any source while such source is in transit from
any location specified in the Declarations;
- (3) neglect of the Insured(s) to use all reasonable means to save
and preserve the property at and after a loss;
- (4) unexplained or mysterious disappearance of property, or shortage
disclosed upon taking inventory;
- (5) any fraudulent, dishonest, or criminal act done by or at the
instigation of any Insured, partner or joint adventurer in or of
any Insured, an officer, director or trustee of any Insured;
- (6) order of civil authority except acts of destruction at the time
of and for the purpose of preventing the spread of fire,
provided that such fire did not originate from "War Risk" as
herein excluded;
- (7) theft, pilferage, burglary, larceny; appropriation or
concealment of any property by any person to whom the property
covered is entrusted;

- (8) depletion, depreciation, wear and tear; deterioration, including that of fuel element cladding;
- (9) or attributable to manufacturing or processing operations which result in damage to stock or materials while such stock or materials are being actually worked upon;
- (10) dampness, dryness, or extremes or changes of temperature of the atmosphere; rust, corrosion or erosion; unless caused directly by a peril not otherwise excluded;
- (11) flood, surface water, waves, tidal water, or tidal wave, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not; water which backs up through sewers or drains; water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basements or other floors, or through doors, windows or other openings in such sidewalks, driveways, foundations, walls, basements or other floors; release of water impounded by a dam; unless otherwise provided by endorsement added hereto;
- (12) earthquake, volcanic eruption, landslide, subsidence or sinking of land or other earth movement, settlement or other movement of foundations, unless otherwise provided by endorsement added hereto; and
- (13) windstorm, tornado, or hurricane, unless otherwise provided by endorsement added hereto.

With respect to Exclusions (7) to (13) inclusive, the Insurer shall be liable if a peril not otherwise excluded ensues, but then only for the loss caused by the ensuing peril.

This Policy does not cover:

- (14) accounts, bills, currency, deeds, evidences of debt, money or securities;
- (15) (a) records, manuscripts and drawings, for loss in excess of their value blank plus the cost incurred for actually transcribing or copying them, except as provided in (b);
(b) media, data storage devices, and program devices for electronic and electro-mechanical data processing or for electronically controlled equipment, for loss in excess of the cost of reproducing such media, data storage devices, and program devices from duplicates or from originals of the previous generation of the media, and no liability is assumed hereunder for the cost of gathering or assembling information or data for such reproduction;

- (16) land, unless otherwise provided by endorsement added hereto;
- (17) foundations, and underground supports, brick, stone or concrete foundations; piers or other supports which are below the undersurface of the lowest basement floor, or, where there is no basement, which are below the surface of the ground, unless otherwise provided by endorsement added hereto;
- (18) animals, lawns, plants, shrubs or trees;
- (19) vehicles licensed for highway use, aircraft or watercraft, except when such vehicles, aircraft or watercraft are being used for the servicing of or in connection with the operation of the property covered by this Policy;
- (20) any loss, to the extent it is collectible, from a contractor, manufacturer or supplier of machinery, equipment or other property under a guaranty or warranty, whether or not such contractor, manufacturer or supplier is included as an Insured in this Policy;
- (21) the cost of making good any faulty workmanship, material, construction or design; provided, however, the Insurer shall be liable if a peril not otherwise excluded ensues, but then only for the loss caused by the ensuing peril.

X. WAR RISK EXCLUSION

The Insurer shall not be liable for loss caused directly or indirectly by:

- (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or by military, naval or air forces; or by an agent of any such government, power, authority or forces;
- (2) any weapon of war employing nuclear fission or fusion whether in time of peace or war;
- (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.

XI. COINSURANCE

1. The Insurer shall not be liable for a greater proportion of any loss to the property covered hereunder (including debris removal and

NUCLEAR MUTUAL LIMITED
HAMILTON, BERMUDA
FIRE DAMAGE EXCLUSION ENDORSEMENT

This Endorsement (the "Endorsement") made by and among the undersigned Member Insured(s) (hereinafter collectively referred to as the "Member Insured(s)") and Nuclear Mutual Limited, a Bermuda mutual company with limited liability (hereinafter referred to as the "Insurer").

In consideration of the mutual terms, covenants and conditions contained herein and in reliance on the representations and warranties set forth herein, the parties hereto do hereby agree as follows:

1. This Endorsement is attached to and forms a part of Policy No. P83-001 of Nuclear Mutual Limited (the "Policy") and is effective from 12:01 a.m. on April 1, 1984, Standard Time in Hamilton, Bermuda.
2. This Endorsement shall be applicable to the following property:

The Construction Support Facilities as shown on the attached schedule.
3. It is hereby agreed and understood that this Policy does not insure against loss to the property described in paragraph 2, or the contents thereof, caused directly or indirectly by fire, lightning or explosion, or any peril which ensues therefrom.
4. In every other respect, the provisions and stipulations of the Policy to which this Endorsement is attached remain unchanged.
5. This Endorsement does not increase the amount of insurance provided under the Policy.

IN WITNESS WHEREOF, the parties hereto have caused this Endorsement to be executed and attested on their behalfs.

Insurer

NUCLEAR MUTUAL LIMITED

Hamilton, Bermuda

Date April 6, 1983

Attest A. E. Ives

By

C. Q. S. Jackson

C.Q.S. Jackson - General Manager

Member Insured(s)

ALABAMA POWER COMPANY

Hamilton, Bermuda

Date April 6, 1983

Attest [Signature]

By

H. C. Butterfield

H. C. Butterfield
Attorney-in-Fact

Date _____

Attest _____

By _____

SCHEDULE FOR ENDORSEMENT NO. FIVE
FIRE DAMAGE EXCLUSION ENDORSEMENT

<u>BUILDING DESCRIPTION</u>	<u>REPLACEMENT COST VALUE (BUILDING AND CONTENTS)</u>
Paint Office	\$ 39,537
Paint Buildings	161,325
Solvent Storage Shed	11,192
Sand Storage Shed	15,883
Nuclear Coatings Storage	52,294
Carpenter Shop	90,338
Insulation Shop	118,223
Bottle Storage	15,168
Quality Control Lab	71,500
Civil Warehouse	893,175
Quality Control Offices	68,950
Trailer (1)	37,826
Trailers (10) including 4 double-wide	516,458
Trailer (1)	37,826
Compressor Shed	49,392
Surplus Materials Warehouse	1,118,386
GPTS Building	<u>40,846</u>
TOTAL	\$ <u>3,338,319</u>

incurred under this Policy or any other insurance agreement entered into by the Insurer.

2. The assets of the Insurer consist primarily of the premiums and retrospective premium adjustments paid to or callable by the Insurer from its member insureds, including the Member Insured(s) under this Policy, reduced by all administrative and other expenses incurred by the Insurer and by all previous losses and the costs thereof incurred by the Insurer under insurance policies issued by it.

V. GENERAL COVERAGE

1. The Insurer, in consideration of the Premium and the Retrospective Premium Adjustment, and subject to the provisions and stipulations herein or added hereto, agrees to indemnify the Insured(s) and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the Insured(s), against ALL RISKS OF DIRECT PHYSICAL LOSS INCLUDING GENERAL AVERAGE AND SALVAGE CHARGES, EXCEPT AS HEREINAFTER PROVIDED, to the property described in the Declarations while in transit as set forth and limited in the Declarations.

2. This Policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, together with such other provisions and stipulations as may be added hereto, as provided in this Policy. The policy period and the limit(s) of insurance are stated in the Declarations.

VI. EXCLUSIONS

This Policy does not insure against loss by:

- (1) gradual accumulation of radioactive contamination;
- (2) radioactive contamination emanating from any source other than the property described in the Declarations;
- (3) neglect of the Insured(s) to use all reasonable means to save and preserve the property at and after a loss, or when the property is in danger of physical damage;
- (4) depletion, depreciation, deterioration or wear and tear;
- (5) dampness, dryness, or extremes or changes of temperature of the atmosphere; rust, corrosion or erosion;

- (6) delay, inherent vice, loss of use, or loss of market;
- (7) infidelity or any dishonest act on the part of the Insured(s) or any party at interest, his or their employees or agents or others to whom the property may be entrusted, carriers for hire excepted;
- (8) (a) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack
 - (i) by any government or sovereign power (de jure or de facto) or by any authority maintaining or using military, naval or air forces; or
 - (ii) by military, naval or air forces; or
 - (iii) by an agent or any such government, power, authority or forces;
- (b) any weapon of war employing nuclear fission or fusion whether in time of peace or war;
- (c) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence;
- (9) seizure, destruction or confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

VII. DEDUCTIBLE

Each loss shall be adjusted separately, and from the amount of each loss there shall be deducted the Deductible Amount stipulated in the declarations or, if there is contributing insurance, the Insurer's co-rata share thereof; provided however, the Deductible Amount shall not be deducted from losses resulting from direct physical loss, including general average and salvage charges, to:

- (1) reactors containing fuel,
- (2) reactor components containing fuel,
- (3) nuclear fuel (including spent fuel), and
- (4) fissionable materials (U_{235} , U_{233} , Pu)



This policy does not apply:

- (1) to loss from an Accident caused directly or indirectly by
 - (a) hostile or warlike action, including action in hindering, combating or defending against an actual, impending or expected attack, by
 - (i) any government or sovereign power (de jure or de facto) or any authority maintaining or using military, naval or air forces,
 - (ii) military, naval or air forces, or
 - (iii) an agent of any such government, power, authority or forces;
 - (b) insurrection, rebellion, revolution, civil war or usurped power, including any action in hindering, combating or defending against such an occurrence, or by confiscation by order of any government or public authority;
- (2) to loss, whether it be direct or indirect, proximate or remote,
 - (a) from an Accident caused directly or indirectly by nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled; or
 - (b) from nuclear reaction, nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, caused directly or indirectly by, contributed to or aggravated by an Accident;

nor shall the Company be liable for any loss covered in whole or in part by any contract of insurance, carried by the Insured, which also covers any hazard or peril of nuclear reaction or nuclear radiation;

- (3) to any increase in the loss necessitated by any ordinance, law, or regulation, rule or ruling regulating or restricting repair, alteration, use, operation, construction or installation;
- (4) under Sections I, II and III to loss
 - (a) from fire concomitant with or following an Accident or from the use of water or other means to extinguish fire,
 - (b) from an Accident caused directly or indirectly by fire or from the use of water or other means to extinguish fire,
 - (c) from a combustion explosion outside the Object concomitant with or following an Accident,
 - (d) from an Accident caused directly or indirectly by a combustion explosion outside the Object,
 - (e) from flood unless an Accident ensues and the Company shall then be liable only for loss from such ensuing Accident,
 - (f) from delay or interruption of business or manufacturing or process,
 - (g) from lack of power, light, heat, steam or refrigeration, and
 - (h) from any other indirect result of an Accident.

CONDITIONS

1. (a) LIMIT PER ACCIDENT.

The Company's total liability for loss from any One Accident shall not exceed the amount specified as Limit per Accident in the Declarations of the policy for the Location of the Object to which the Accident occurred. If One Accident occurs to more than one Object, the Limit per Accident applicable to said One Accident shall not exceed the highest Limit per Accident specified as applicable to any one of the said Objects. The term "One Accident" shall be taken as including all resultant or concomitant Accidents whether to one Object or to more than one Object or to part of an Object. The inclusion herein of more than one Insured shall not operate to increase the limits of the Company's liability.

1. (b) LIMIT OF LIABILITY - SECTION II.

The limit of the Company's liability shall be an amount equal to the difference between the Limit per Accident and the amount paid under Section I provided that the Company's total liability under Section II shall not exceed \$1,000.

1. (c) LIMIT OF LIABILITY - SECTION III.

The limit of the Company's liability shall be an amount equal to the difference between the Limit per Accident and the sum of the amounts of loss required to be paid under Sections I and II.

subject to any individual limits on the amount of loss payable under Sections I, II and III of the policy as specified in Endorsement A of the policy as being part of and not in addition to the said Limit per Accident.

2. EARTHQUAKE LIMITATION.

With respect to loss resulting directly or indirectly from earthquake:

- (a) This policy does not apply unless an Accident ensues and the Company shall then be liable only for loss from such ensuing Accident.
- (b) The term "earthquake" shall include but shall not be limited to landslide, subsidence, tsunami or any other earth movement which is directly caused by or resulting from earthquake.
- (c) The total liability of the Company for any One Occurrence with respect to Sections I, II and III and the Endorsements of the policy shall be the larger of the following:
 - i. \$100,000, or
 - ii. 20% of the sum of the applicable limits under this policy and its Endorsements,
 but in no event shall the said liability exceed \$2,500,000.
- (d) The term "One Occurrence" shall be taken as including all earthquakes within any period of seventy-two consecutive hours.
- (e) If loss at two or more Locations is involved in One Occurrence the Deductible provisions of this policy and its Endorsements shall apply separately to loss and expense at each of the said Locations.
- (f) The provisions of this Condition shall not apply if the sum of the applicable limits is \$100,000 or less.

The Insurer's obligation to pay the Weekly Indemnity shall terminate when the Outage has ended. Payments for partial weeks of an Outage shall be prorated.

3. If there is an Outage of more than one Unit by reason of the same incident, the Weekly Indemnity per Unit shall be limited as follows:

<u>Number of Units Simultaneously Out of Service</u>	<u>Per Unit Indemnity (% of selected recovery)</u>
1	100% of single unit recovery
2	80% of single unit recovery
3	60% of single unit recovery
4	50% of single unit recovery

Upon start-up of an affected Unit, these limitations on Weekly Indemnity payments, if still applicable, will apply only to those Units remaining affected.

4. In no event shall the Insurer be liable for more than the Limit of Liability specified in the Declarations.

VI. EXCLUSIONS

1. This Policy does not cover any Outage resulting from:

- (a) Gradual accumulation of radioactive contamination;
- (b) Radioactive contamination at the Site specified in the Declarations resulting from matter released from any source outside the premises of that Site, but this exclusion shall not apply to radioactive contamination resulting from matter released from any source while such source is in transit from the Site specified in the Declarations;
- (c) Any fraudulent, dishonest, or criminal act done by or at the instigation of a Member Insured(s), partner or joint adventurer in or of any Member Insured(s), an officer, director or trustee of any Member Insured(s);
- (d) Order of civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from "War Risk" as herein excluded;

- (e) Any governmental act, decree, order, regulation, statute or law prohibiting or preventing, directly or indirectly, the commencement, recommencement or continuation of any operations at the Site specified in the Declarations;

- (f) Any local, state or federal ordinance or law regulating construction or repair of buildings or structures, or suspension, lapse or cancellation of any lease or license, contract or order, or interference at the Site specified in the Declarations by strikers or other persons with rebuilding, repairing or replacing the property or with the resumption or continuation of business.

- (g) Depletion, depreciation, wear and tear, or deterioration, including that of fuel element cladding;

- (h) Dampness, dryness, or extremes or changes of temperature of the atmosphere; rust,

corrosion or erosion; unless caused directly by a peril not otherwise excluded;

2. With respect to Exclusions (g) and (h) inclusive, the Insurer shall be liable for any Outage resulting from an ensuing peril not otherwise excluded, but then only for the loss caused by the ensuing peril.

VII. WAR RISK EXCLUSION

The Insurer shall not be liable for loss caused directly or indirectly by:

1. Hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or by military, naval or air forces; or by an agent of any such government, power, authority or forces;

2. Any weapon of war employing nuclear fission or fusion whether in time of peace or war; or

3. Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.

VIII. APPORTIONMENT

1. The Insurer shall not be liable (a) for a greater proportion of any loss than the amount of insurance under this Policy bears to the whole amount of insurance, written upon the identical terms, provisions and stipulations contained in this Policy, whether collectible or not, nor (b) for a greater proportion of any loss than the amount hereby insured bears to all insurance, whether collectible or not, covering in any manner such loss or which would have covered such loss except for the existence of this insurance; except that if any type of insurance not written upon the identical terms, provisions and stipulations contained in this Policy applies to any loss to which this insurance also applies or would have applied to any

within a reasonable time, on giving notice of its intention so to do within sixty (60) days after the receipt of the proof of loss herein required.

- 17. **Abandonment.** There can be no abandonment to the Company of any property.
- 18. **Suit.** No suit, action or proceeding for the recovery of any claim under this policy shall be sustainable in any court of law or equity unless the same be commenced within twelve (12) months next after discovery by the Insured of the occurrence which gives rise to the claim, provided however, that if by the laws of the State within which this policy is issued such limitation is invalid, then any such claims shall be void unless such action, suit or proceeding be commenced within the shortest limit of time permitted by the laws of such State.
- 19. **Appraisal.** If the Insured and the Company fail to agree as to the amount of loss, each shall, on the written demand of either, made within sixty (60) days after receipt of proof of loss by the Company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen (15) days to agree upon such umpire, then, on the request of the Insured or the Company, such umpire shall be selected by a judge of a court of record in the State in which such appraisal is pending. The appraisers shall then appraise the loss, stating separately the actual cash value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The Insured and the Company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The Company shall not be held to have waived any of its rights by any act relating to appraisal.

- 20. **Assignment of Policy.** This policy shall be void if assigned or transferred without the written consent of this Company.
- 21. **Cancellation.** This policy may be cancelled by the Insured by surrender thereof to the Company of any of its authorized agents or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. This policy may be cancelled by the Company by mailing to the Insured at the address shown in this policy or last known address written notice stating when, not less than five (5) days thereafter, such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date of the cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.

If the Insured cancels, earned premiums shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The Company's check or the check of its representative mailed or delivered as aforesaid shall be a sufficient tender of any refund of premium due to the Insured.

- 22. **Conformity to Statute.** Terms of this policy which are in conflict with the statutes of the State wherein this policy is issued are hereby amended to conform to such statutes.
- 23. **Changes.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

EXCLUSIONS

- 2. **PERILS EXCLUDED** This Policy does not insure against loss, damage or expense caused directly or indirectly by:
 - A. (1) Hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or forces;
 - (2) Any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
 - (3) Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or Customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade;
 - B. Nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this Policy; however, subject to the foregoing and all provisions of this Policy, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this Policy.

In Witness Whereof, the Company has executed and attested these presents, but this policy shall not be valid unless countersigned by a duly authorized agent of the Company at the agency hereinbefore mentioned.

Simon E. Ryan
Secretary

[Signature]
President of
American Home Assurance Company

[Signature]
President of
National Union Fire Insurance Company of Pittsburgh, PA.

DATA REQUEST ITEM 5

(A) Plant Closed to Service:	
- Land	\$ 1,454,214
- Nuclear Production	1,623,331,486
- Transmission	21,132,620
- Nuclear Fuel - Closed to Service	231,855,236
Total Plant Closed to Service	<u>1,877,773,556</u>
(B) Accumulated Provision for Depreciation and Amortization:	
- Land	-
- Nuclear Production (See Note 1)	222,790,245
- Transmission	2,406,603
- Nuclear Fuel - Amortization of original cost (See Note 2)	153,736,148
Total Accum. Prov. for Depr. & Amort.	<u>378,932,996</u>
(C) Net Adjusted Investment (A-B):	
- Land	1,454,214
- Nuclear Production	1,400,541,241
- Transmission	18,726,017
- Nuclear Fuel - Net Adj. Inv.	78,119,088
Total Net Adjusted Investment	<u>\$1,498,840,560</u>

Notes:

- 1 - Does not include decommissioning in the amount of \$11,621,077.
- 2 - Does not include nuclear fuel disposal amortization of \$60,973,862.

DATA REQUEST ITEM 6

(Includes Derivations and Work Papers
for Plant and Fuel)

ALABAMA POWER COMPANY
 AEC - FARLEY PLANT Capital Costs
 During Construction in Excess of Booked
 (SUMMARY)

		(1)	Actual AFUDC (2)	Additional Capital Cost (Col. 1 - Col. 2) (3)
Incremental Cost AFUDC:				
	Plant	721 172 911	327 365 286	393 807 625
	Nuclear Fuel	68 163 952	28 224 513	39 939 439
	Total	789 336 863	355 589 799	433 747 064
Ownership Risks:				
	Plant	69 520 000	-	69 520 000
	Nuclear Fuel	576 500 000	-	576 500 000
	Total	75 285 000	-	75 285 000
Capital Costs:				
	Plant	790 692 911	327 365 286	463 327 625 ✓
	Nuclear Fuel	73 928 952	28 224 513	45 704 439 ✓
	Total	864 621 863	355 589 799	509 032 064

COMPUTATION OF EXCESS CAPITAL COSTS DUE TO NUCLEAR OWNERSHIP

Addition to Total Cost of Capital Due to Nuclear Construction and Operation*	75 Basis Points
Plant Farley as a % of APC Net Plant	31.4%
Cost of Capital Penalty Attributable to Plant Farley	$75 \div 31.4\% =$ 239 Basis Points
Less: Cost of Capital Premiums Already Accorded to Plant Farley	$31.4\% \times 239 = 75$
Total Cost of All Capital Penalized by Nuclear Construction	164 Basis Points

This 164 basis points rounded to 165, was included in "Capital Costs During Fabrication in Excess of Booked."

*Based upon financial judgment, supported by opinions of respected investment analysts such as Mr. Paul Owen of Massachusetts Financial Services and Mr. Chris Young of Donaldson, Lufkin & Jenrette Securities Corp., investors demand a premium of approximately 75 basis points on all securities issued by a utility involved with the building and operation of nuclear facilities.

ALABAMA POWER COMPANY
AEC - FARLEY PLANT ALLOCATION
Excess Capital Costs Due to Nuclear Ownership

Year	Actual Net AFUDC		Excess Cost		
(1)	(2)	(3)	(4)		
1968	829398	Col 2 x (1.65/6.0)	228084		
1969	6539314	Col 2 x (1.65/6.8)	1586745		
1970	31471805	Col 2 x (1.65/7.5)	6923797		
1971	191639674	Col 2 x (1.65/7.5)	43700728		
1972	634039929	Col 2 x (1.65/7.5)	139488784		
1973	1534905775	Col 2 x (1.65/7.5)	337679271		
1974	2283686575	Col 2 x (1.65/7.5)	634411047		
1975	4054601486	Col 2 x (1.65/7.5)	892012327		
1976	5055584028	Col 2 x (1.65/7.5)	1112228486		
1977	5742344769	Col 2 x (1.65/7.6)	1246693272		
1978	2707451635	Col 2 x (1.65/8.0)	544792097		
1979	3207065344	Col 2 x (1.65/8.1)	653291089		
1980	3870505934	Col 2 x (1.65/8.3)	769437927		
1981	2551328495	Col 2 x (1.65/8.1)	519717101		
1982	193024440	Col 2 x (1.65/8.4)	32915515		
	<u>22672028601</u>		<u>6940106270</u>		
through 6-30-83	61000000	Col 2 x (1.65/8.9)	11952865		
	<u>22736528601</u>	(used following) 69520000	<u>69520641.35</u>		
<u>Nucl Fuel</u>					
1969-6-30-83	28224513	5765000	5765481		
	<u>355589799.01</u>	75285000	<u>75286122.35</u>		

ALABAMA POWER COMPANY
 AEC - FARLEY NUCLEAR FUEL ALLOCATION
 Excess Capital Costs Due to Nuclear Ownership

Year	Actual Net AFUC		Excess Cost		
(1)	(2)	(3)	(4)		
1969	115	Col. 2 X (1.65/6.8)	28		
1970	1845	Col. 2 X (1.65/7.5)	406		
1971	3355	Col. 2 X (1.65/7.5)	738		
1972	4345	Col. 2 X (1.65/7.5)	956		
1973	212645	Col. 2 X (1.65/7.5)	46782		
1974	1632243	Col. 2 X (1.65/7.5)	359093		
1975	3052348	Col. 2 X (1.65/7.5)	671517		
1976	2649622	Col. 2 X (1.65/7.5)	582917		
1977	-	Col. 2 X (1.65/7.6)	-		
1978	1439188	Col. 2 X (1.65/8.2)	289593		
1979	3060117	Col. 2 X (1.65/8.1)	623357		
1980	4258924	Col. 2 X (1.65/8.3)	846654		
1981	5138254	Col. 2 X (1.65/8.1)	1046681		
1982	3748512	Col. 2 X (1.65/8.4)	736315		
	25201513		5205037		
Through 6-30-83	3023000	Col. 2 X (1.65/8.9)	560444		
	28224513		5765481		

- Example -

AFUDC Rate

Using Incremental Cost of Debt & Preferred
1982

	CAPITALIZATION (000's)	CAP RATIO	COST RATES	(S/G) WEIGHTED COST RATES			
S-T Debt	(S) 37970		19.01	8.26	1.57		
L-T Debt	2464547	59.91	16.92	91.74	10.14		
Preferred	418189	10.17	16.49	91.74	1.54		
Common	1231061	29.92	18.00	91.74	4.94		
Tot. Cap.	4113797	100.00					
Gross Property Additions	(G) 459437						
Gross AFUDC RATE					<u>18.19</u>		
i - model semi-annual Effective Rate					<u>19.03</u>		
Cost Rates:							
L-T Debt:							
First Mtg							
Pol. Cont							
Corp Leases							
Total LTD							
Preferred Stock:							

$$75000 \times 17.74 = 13305$$

$$100000 \times 14.96 = 14960$$

$$100000 \times 18.53 = 18530$$

$$4250 \times 9.80 = 4165$$

$$\underline{135211.65} \times 19.40 = \underline{26230.781}$$

$$\underline{434180} \times \underline{16.92} = \underline{73442.281}$$

$$\underline{40000} \times \underline{16.49} = \underline{6596}$$

ALABAMA POWER COMPANY

Nuclear Income Tax Adder Summarized
 Farley Asset Sale
 July 1, 1983

	Nuclear	
	Production	Fuel
Additional Items		
Ownership Risk	69520000	5765000
Devalued Stock	114200000	0
Total	183720000	5765000
Tax Rate	.474923	.474923
Tax Liability	87252854	2737931
Reciprocal Rate	.525077	.525077
Income Tax Adder	166171540	5214342
Other Property	79484836	3700564
Total Income Tax Adder	245656376	8914906

ALABAMA POWER COMPANY
 NUCLEAR FUEL - INCOME TAX ADDER
 FABLEY ASSET SALE
 JULY 1, 1981

NUCLEAR FUEL	ADJUSTED PROPERTY BASIS		NORMALIZED DIFFERENCES		FLOW-THRU DIFFERENCES			CALCULATION OF TAX ADDER		INCOME TAX ADDER
	BOOK	TAX	DEPRECIATION METHOD	BOOK/TAX BASIS DIFFERENCES	DEPRECIATION RATE VARIANCE	BOOK/TAX BASIS DIFFERENCES	TOTAL DIFFERENCE	ORDINARY	CAPITAL	
IN SERVICE	77329017	92137949	-21152810	594706	0	5729171	-14828933	3811749	-18646782	
CHIP EXPENDITURES	181741217	178204689	0	1630048	0	9706500	11534548	3921000	7615548	
INCREMENTAL GROSS AFUDC	39939439	0	0	46785336	0	-6846297	39939439	17773050	22166389	
TOTALS	299009673	262362618	-21152810	49010490	0	8783374	36687054	25505819	11161225	
			(1)					474923	299099	
			(2)					12113300	3341234	15454534
COMPOSITE INCOME TAX RATES										
TAX LIABILITY BEFORE DEFERRED TAX ADJUSTMENT										
DEFERRED INCOME TAX ADJUSTMENT										
(1) DEPRECIATION METHOD										
(2) BOOK/TAX BASIS DIFFERENCES										
TIMING DIFFERENCES DEFERRED										
TAX LIABILITY AFTER DEFERRED TAX ADJUSTMENT										
COMPOSITE INCOME TAX RATES RECIPROCAL										
INCOME TAX ADDER										

ALABAMA POWER COMPANY

NUCLEAR PRODUCTION - INCOME TAX ADDER
 FAIRLEY ASSET SALE
 JULY 1, 1982

	ADJUSTED PROPERTY BASIS		NORMALIZED DIFFERENCES		FLOW-THRU DIFFERENCES			CALCULATION OF TAX ADDER		INCOME TAX ADDER
	BOOK	TAX	DEPRECIATION METHOD	BOOK/TAX BASIS DIFFERENCES	REPRECIATION RATE VARIANCE	BOOK/TAX BASIS DIFFERENCES	TOTAL DIFFERENCE	ORDINARY	CAPITAL	
NUCLEAR PRODUCTION										
LAND	1454214	881713	0	32895	0	537604	372581	0	372581	
PLANT	1400541241	77671987	275433712	29072314	39576725	279789103	623821254	488545034	135256220	
SUBSTATIONS	18724017	11350740	322221	315635	634888	3220538	7395277	5299548	2095729	
CEWP EXPENDITURES	16070519	14504044	0	441580	0	1121495	1564475	867008	699475	
INCREMENTAL GROSS REJURE	393807626	0	0	488918212	0	-95116584	393807626	175244394	218543232	
TOTALS	1830598417	803434884	276455976	518744036	40213013	189540154	1027163133	469975976	357187137	
			(1)	(2)						
COMPOSITE INCOME TAX RATES										
TAX LIABILITY BEFORE DEFERRED TAX ADJUSTMENT										
DEFERRED INCOME TAX ADJUSTMENT										
(1) DEPRECIATION METHOD	278455976									
(2) BOOK/TAX BASIS DIFFERENCES	518734036									
TIMING DIFFERENCES DEFERRED										
797389964										
TAX LIABILITY AFTER DEFERRED TAX ADJUSTMENT										
27120983										
COMPOSITE INCOME TAX RATES RECIPROCAL										
.525077										
INCOME TAX ADDER										
51651441										
27833396										
79484836										
318187000										
107119633										
623066033										
-474923										
-299898										
-37849834										
19168216										
46607199										
.700102										

Derivation of
Entitlement Fee
For Sale of Nuclear Plant
to Alabama Electric

(\$ X 1,000)

1. Management and Construction

Services Fees:

a) Craft Labor Management - 3% of Craft Labor Costs (1) -	\$10,793
b) Construction Materials & Subcontract Management - 2% of Material Cost and Subcontract Cost (2)	3,293
c) Construction Management Services - 20% of Costs of Supervisory Personnel and Overhead (1)	39,616
Deduct total fees paid Daniel Construction Company	<u>(10,887)</u>
TOTAL MANAGEMENT & CONSTRUCTION SERVICES FEES	\$42,815
2. Fee for Provision of Construction Equipment - 30% of Cost of APCO Owned Equipment used on construction	5,552
3. Fee for Provision of Procurement Services for Major Equipment Contracts - 20% of Contract Prices (2)	71,704
4. Fee for Provision of Access to Licensed and Developed Site - Estimate of Value of Limited Resource	<u>50,000</u>
	\$170,071

-
- (1) Conservative estimate of conventional charges imposed by contractors building nuclear plants.
- (2) Represents payment of costs of expertise in procurement services furnished by Alabama Power and its agent, Southern Company Services, Inc. not otherwise reflected in costs.

Calculation of Other Adverse Consequences
Associated with Building Plant Farley

Compensation for Sale of Plant Financed
With Common Stock Sold Below Book Value

	<u>Construction Expenditure Stream</u> ((\$MM))	<u>Equity Ratio</u> %	<u>Actual Book Value</u>	<u>Adjusted Book Value</u>	<u>Required Equity Premium</u> ((\$MM))
1968	\$ 0.4	32.7%	\$13.95	--	\$ 0
1969	2.0	33.2	15.21	--	0
1970	6.8	33.1	16.33	--	0
1971	43.9	32.8	17.08	--	0
1972	88.2	31.7	18.07	--	0
1973	191.0	30.9	18.22	\$18.81	1.9
1974	200.6	30.8	16.58	18.93	8.8
1975	196.8	30.1	16.89	20.12	11.3
1976	173.8	31.4	16.81	20.57	12.2
1977	183.5	31.2	17.21	21.49	14.2
1978	124.1	27.4	17.05	21.68	9.2
1979	101.1	27.7	16.80	22.02	8.7
1980	146.7	30.9	16.80	23.40	17.8
1981	122.2	29.9	16.35	24.39	18.0
1982	67.4	31.9	16.78	26.25	12.1
	<u>\$1,648.5</u>				<u>\$114.2</u>

$$\text{Required Equity Premium}_N = \left(\frac{\text{Adjusted Book Value}_N}{\text{Actual Book Value}_N} - 1 \right) \times \text{Alabama Power Equity Ratio}_N \times \text{Construction Expenditures}_N$$

Charles R. Lowman
General Manager



June 24, 1983

Mr. Jesse S. Vogtle
Executive Vice President
Alabama Power Company
P. O. Box 2641
Birmingham, Alabama 35201

Dear Mr. Vogtle:

We are in receipt of the data enclosed with your letter of June 10, 1983. Although our review of the data is not yet complete we are able to point out a number of problems with the Company's proposals for conditions and pricing of ownership access to the Farley units. While we appreciate your stated assurance of good faith on the Company's part, some of the Company's proposed conditions and pricing elements are so outlandish as to raise substantial questions in our minds as to the seriousness of the Company's position. For example, the proposal that REA "guarantee" AEC's performance and any contingent liabilities is wholly unrealistic and unreasonable -- a fact we cannot believe the Company to be ignorant of. The proposal that the Company hold a second mortgage on AEC's electric system is equally ludicrous. Thus, we cannot help but have doubts regarding the Company's good faith so long as its proposal contains such terms. Further doubts in this regard are raised by some of the elements in the Company's pricing proposal which are designed to earn the Company a profit as a result of its violation of the antitrust laws.

These and other aspects of the Company's proposal are discussed in detail below. The bases of our understanding of the Company's proposal are (1) Mr. Allen Franklin's letter of April 29, 1983; (2) the Company's explanations during our meeting in Birmingham on May 24, 1983; and (3) your letter of June 10, 1983. We have generally addressed the items as listed in the April 29 letter with consideration given to comments at the meeting and your subsequent letter.

1. We must first disagree with the ownership percentage (5.95%) suggested by APCo. The 243.9 MW AEC on-system peak and the 40 MW deduction for industrial and Florida load were provided by AEC. However, we estimate the load contributed

Mr. Jesse S. Vogtle
June 24, 1983
Page 2

by AEC's off-system members to be higher than what you have utilized. In any case, it appears that your 184.0 MW estimate is at the delivered level. If this is true, losses must be added to your estimate to obtain a generation level number consistent with the generation level on-system load. Further we cannot accept your subtraction of SEPA preference customer demand from the off-system component. ALAB-646 makes clear that the proper measure is the peak load, or demand, of AEC and off-system members -- not merely the increment of demand furnished by APCo. As the Board said (13 NRC at 1108)

"AEC suggests instead that the ratio should be pegged to the load of AEC's on-system and off-system members and of the applicant at the time of their respective peak loads. [Emphasis in original.]

"We agree with this position of AEC. Basing the allocation formula on the time of applicant's peak demand skews the result in its favor. A more equitable division of ownership would result if the shares were to be determined by the respective peak demands of AEC and the applicant occurring during 1976. The license condition we impose is based accordingly."

There is simply no rational basis for APCo to deduct the SEPA increment from the peak load measure.

Finally, we note that the Company used 5880.5 MW as the measure of its peak load, July 26, 1976 at 1:00 p.m. However, this is not consistent with Company representations made elsewhere. The Company's 1976 Form 1 and rate case historical data for July 1976 indicates that the Company's peak occurred on July 14, 1976 with the hour ending at 4:00 p.m. The rate case data also indicates a greater contribution by AEC members than the 173.3 MW shown in your June 10, 1983 data. We also believe that this number does not include losses, but is measured at the delivered level.

The Company's computation of AEC's load component is clearly defective as noted above, and the better measure is the 410.9 MW furnished to you in my letter of June 4, 1982. While the Company has had this measure for over a year it has never taken issue with it. Even this measure understates the load component AEC is entitled to, since it sums AEC's peak and the demands on the off-system members coincident to AEC's peak. Under the Antitrust License Conditions, AEC is entitled to a measure that sums AEC's peak and the non-coincident peaks of each off-system member. Thus, the 410.9

Mr. Jesse S. Vogtle
June 24, 1983
Page 3

MW measure understates AEC's actual load component under the ALAB-646 formula.

2. We cannot accept your so-called "estimated reasonable value" of the plant (line 1 of Ex. I to your April 29 letter). This is simply a blatant attempt by the Company to profit from its anticompetitive behavior in denying AEC ownership access to the Farley units for over a decade. The Antitrust License Conditions base sale to AEC of its interest on the "costs related to Units 1 and 2," and ALAB rejected conditions which would afford a "return on the owner's investment" in the units (13 NRC at 1104). The Antitrust License Conditions were affirmed by the Eleventh Circuit -- not modified as the Company now attempts to argue. Any return to the Company through the guise of using some replacement value concept in pricing the plant would be wholly unjustified and is rejected. AEC is not willing to purchase its share of the units on a basis different from what AEC's costs would have been had the Company complied with the antitrust laws at the time AEC first requested ownership access. To purchase its share on another basis would simply be to reward the Company for its violations of the antitrust laws -- a result wholly inconsistent with the purposes of remedial antitrust conditions. The current replacement value concept suggested by the Company cannot pertain to the pricing of the plant for purposes of eliminating the anti-competitive situation produced by the Company.

3. With regard to the amount of land you propose to convey (\$A.1. of April 29 letter, and data request item 2 map), it appears that you propose to allow AEC to acquire fee title to only approximately 10 acres. The map appears to cover nearly 300 acres with much of that area utilized for plant facilities. We cannot see the logic of conveying only 10 acres, and we believe REA will have serious problems with that concept. It is reasonable and appropriate that AEC acquire an undivided interest in all the land containing facilities associated with the plant. We have no problem with an agreement to reconvey at a fair price after decommissioning.

4. We find difficulty in your proposed use of a quitclaim deed (paragraph A.2. of April 29 letter), which we do not believe is the normal and usual form of conveyance in Alabama. We have serious doubts that REA would accept that form of deed.

A proposed acceptable "as is, where is" sale clause is attached.

Mr. Jesse S. Vogle
June 24, 1983
Page 4

5. The Company's proposed "incremental cost" concept (paragraphs A.3., A.4. and B.1.(c)) is unacceptable. AEC's access to the Farley units has been gained only by the expenditure of a considerable amount of money, effort and time by AEC that would not have been required if the Company had allowed AEC ownership participation in the plant long ago as it should have. We believe there is virtually no incremental cost involved in AEC's ownership, and to include such a clause would only encourage the Company to attempt to allocate such costs. We do not believe there are any significant incremental costs; the Company has certainly failed to identify any. Even if some were to be incurred we believe it would be equitable at this point to share them.

6. Paragraphs A.5., A.6., B.1.(d) and (e) dealing with the liability responsibilities of the parties, are also addressed by our proposed "as is" clause. We further propose the enclosed "limitations of liability" clause in addition. We cannot agree to hold APCo harmless from claims, by AEC members or members of members associated with the plant regardless of ownership or because of AEC ownership; there is no similar provision for APCo to hold AEC harmless for any suits of APCo customers arising out of the Farley plant. These potential costs should be shared pro rata. We also propose the "uncontrollable forces" clause enclosed herein, which generally states tha neither party will be in default due to uncontrollable forces.

7. We are in agreement with paragraph A.7., subject to proper accounting for cost after joint ownership begins.

8. Regarding paragraph A.8., we believe it is appropriate to waive the right to partition, but need to explore further the other rights mentioned. It would also seem appropriate for either party to waive any rights of eminent domain it might have over the other party in connection with Farley facilities and land.

9. Regarding paragraph A.9., we have no problem with giving APCo the right of first refusal should AEC desire to sell its interest in the plant at some future date. We suggest addressing the method of pricing such a sale after we have reached agreement upon a pricing methodology for the sale to AEC. We would also want it made clear that a mortgage, lease back, merger, acquisition, etc., would not constitute a sale under this clause.

10. Regarding paragraph A.10. we cannot agree to an open-ended indemnification as requested. We address the taxes on the sale itself later.

Mr. Jesse S. Vogle
June 24, 1983
Page 5

11. In general we can agree to the requirement that the Company have full authority to make all decisions regarding the ownership, capital additions, operation and maintenance, and fuel. However, under these circumstances we do feel that a "no adverse distinction" clause and a covenant by the Company to carry out its obligations in accordance with "good utility practice" is required and reasonable. We enclosed clauses addressing these issues. We understand that the Company has claimed concern that these clauses may lead to disputes. However, we frankly find it hard to image problems arising under these clauses, and we know of no ownership or operating agreements wherein problems have arisen under these clauses.

12. As to paragraph B.1.(a), we are willing to share costs pro rata on a pay-as-you-go basis. We would generally agree to pay our pro rata share as the Company pays which might involve some advance payment of very short duration. We are willing to pay an appropriate share of A&G expenses, but will not duplicate payments made through other rates or sales. In addition to AEC accepting and agreeing to be bound by various contracts, such contracts should be partially assigned to AEC as appropriate. As to fuel, we may have a problem with REA regarding paying for something without acquiring ownership. We would like to explore further sharing pro rata in the fuel supply arrangements of the Company, either leasing or ownership, or some combination thereof as the Company is now utilizing.

13. We repeat that we see no justification for paying various fees (paragraph B.1.(b)) in excess of cost for operation and maintenance, capital improvements or fuel costs. We know of no other agreements containing these fees. The concept of AEC acquiring output of the plant at its ownership costs does not permit the Company to realize profits from its non-compliance with the antitrust laws.

14. We can generally agree to exclude liability of APCo to AEC for consequential, special, incidental or indirect damages, subject to consistency with other clauses we have proposed (paragraph B.1.(f)).

15. AEC is willing to pay its pro rata share of decommissioning and disposal of nuclear fuel recognizing such responsibility from the date of closing (paragraph B.1.(g)).

16. We are in general agreement with paying a pro rata share of any fines or penalties associated with Farley due to any incident after closing and further subject to other

Mr. Jesse S. Vogtle
June 24, 1983
Page 6

general clauses in the agreement such as limitation of liability (paragraph B.1.(h)).

17. We have no problem with the general term of the agreement (paragraph B.1.(i)).

18. We have no problem with the Company's general concept regarding insurance (paragraph B.2.(a)). However, we need to know if it will cost extra for AEC to become a member of any pool such as NML. AEC would also retain the right to purchase additional insurance for its benefit should it desire.

19. Paragraphs B.2.(b), (c), B.3.(a)(8) need to be developed. However, paragraphs B.3.(b)(5), (6) and (7) are unacceptable. We are currently studying the feasibility of various approaches for dealing with future contingencies such as retrofit and decommissioning costs.

20. We propose that the agreement deal with two classes of defaults. The first would be for failure to promptly pay various amounts when due, and the second would deal with non-monetary matters such as B.3.(a)(9) and (11). The events of default listed in paragraphs B.3.(a)(5), (8), and (10) are unnecessary, since our proposed clauses or concepts should cover the former two items and the latter item will be covered by our covenant in the agreement to pay our pro rata share of costs. We suggest that the first group of events involving default for failure to timely pay money would provide for a default to occur after fifteen days of any due date of any payment. Further, AEC could make any payment under protest subject to other rights that it might have in the agreement. Finally, a period of 120 days would be allowed to cure such a default without triggering loss of plant output or resale to APCo. From the time of default, AEC will be obligated to pay any interest on monies in default. A lesser (non-monetary) event of default would not trigger AEC's loss of output or resale to the Company, but AEC would be obligated for any interest or other costs to the Company.

21. There are other clauses that we believe appropriate to the Farley agreement. Without going into detail, they would include at least the following:

- a. A clause obligating the Company to sell partial requirements power to AEC in accordance with paragraph 6 of the License Conditions. We propose

Mr. Jesse S. Vogtle
June 24, 1983
Page 7

that this be as per the Interconnection Agreement for short term power and at average costs for long term deficits.

- b. A clause specifying that deliveries of power hereunder would be in accordance with the wheeling agreements (either Schedule I or Off-System). Some modifications will be required to these agreements.
- c. A clause providing for waiver of the notice requirement for serving more off-system delivery points with Farley output.
- d. A clause providing for the Company to provide AEC with various capital addition, operating and fuel budgets and projections on an annual or monthly basis so that AEC can plan for appropriate funds to be available.
- e. A tax clause dealing with payment of various taxes. A proposed tax clause is enclosed.
- f. A clause providing for AEC to audit various costs of purchase, construction, O&M, capital improvements, fuel, etc.
- g. A clause providing for regulatory approval of the agreement, and APCo's cooperation in obtaining such approval.
- h. A clause providing for notice to AEC of planned maintenance and refueling outages, plus as much notice as possible on a forced outage. This clause would also provide for keeping AEC informed on an hourly basis of the output of Plant Farley. A signal indicating instantaneous output would be desirable.
- i. A clause providing for access and observation at the site by AEC or its designees.
- j. A severability clause providing for the remainder of the agreement to remain in effect should some portion be determined unenforceable or invalid.
- k. A clause that the Company will provide to AEC various cost accounting and financial and operating statistics on Farley.

Mr. Jesse S. Vogtle
June 24, 1983
Page 8

1. The REA required social clauses: Environmental, Safety, Buy-American, Kick-back, Equal Opportunity, Non-segregated Facilities, Flood Insurance, Historical Places, and Public Officials Not To Benefit.

We address the cost components below:

22. We reject the "reasonable value" estimate for reasons previously given. The "net adjusted investment" appears to represent a basis from which to work. However, this number must be further adjusted to reflect AEC's ownership cost, particularly recognizing AEC's interest during construction and long term financing as though AEC has been participating from the beginning of the project. This approach is consistent with ALAB-646's requiring ownership access by AEC so as to recognize its own cost of money and consistent with the license conditions requiring good faith negotiations which fairly accommodate AEC's interest. For these reasons we reject the "capital costs during construction in excess of booked," "adjustments for income tax effect," "entitlement fee," and "other adverse financial consequences associated with building Plant Farley". For the same reasons we must reject your proposed "incremental cash, gross AFUDC".

23. Regarding the "entitlement fee," we find no logic behind these calculations other than an attempt to escalate the price. Again, considering the posture of this case, and AEC's attempts to participate from the beginning of the project, no entitlement fee is permissible.

24. Regarding sale of stock below book value, we not only disagree with the concept in its entirety, but we also cannot relate the price of the stock to be associated with Farley. Any sales of stock below book value would have to be due to many circumstances involving the Southern Company operating companies, and most probably was due to lack of timely and adequate retail rate relief.

25. Without commenting on the details of the adjustments for income tax effect, we have two serious problems with any taxes. First, if AEC had been allowed by the Company to participate in Farley from the time it requested, these alleged tax problems would have been avoided by the Company. Since the NRC decision found one of the antitrust violations by the Company to be the withholding of ownership, and since APCo has been on notice from the beginning that NRC might require certain license conditions, AEC will assume no

Mr. Jesse S. Vogtle
June 24, 1983
Page 9

responsibility for any possible tax liability of the Company in this case, which is simply one of the costs to APCo of violating the antitrust laws. Second, none of these calculated taxes would be appropriate under any circumstances regarding nuclear fuel, since we are only paying for a right to use the fuel pro rata, and that could not be construed as a sale requiring the payment of taxes.

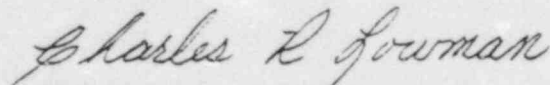
26. Our proposal for the purchase price of the plant itself, excluding fuel for the moment, would be to establish a reasonable net adjusted investment (less depreciation and estimated decommissioning costs) as of a date certain subject to a final audit.

27. Regarding fuel, we would prefer to further explore the purchase concept versus sharing in Company cost, including leases, since it is proposed that we not acquire title in any case.

We look forward to discussing these matters further with you next week.

Very truly yours,

ALABAMA ELECTRIC COOPERATIVE, INC.



Charles R. Lowman
General Manager

CRL:elf

Attachments

cc: Robert A. Buettner, Esq.

Mr. Jesse S. Vogtle
June 24, 1983
Page 10

FARLEY CLAUSE

"As Is" Sale

Farley is to be sold "as is" and "where is". The Company makes no representation or warranty whatsoever in this agreement, express, implied or statutory, including, without limitation, any representation or warranty as to the value, quantity, condition, saleability, obsolescence, merchantability, fitness or suitability for use or working order of any of Plant Farley, nor does the Company represent or warrant that the use or operation of Farley will not violate patent, trademark or service mark rights of any third parties. Cooperative is willing to purchase Farley "as is" and "where is" and in accordance with the terms and conditions of this agreement. Notwithstanding the foregoing, Cooperative shall have the benefit, in proportion to its interest in Farley, to all manufacturers, vendors, and contractors warranties and all patent, trademark and service mark rights running to the Company in connection with Farley.

Mr. Jesse S. Vogtle
June 24, 1983
Page 11

FARLEY CLAUSE

Limitations of Liability

The Company shall have no liability to the Cooperative for any loss, damage, or expense suffered by Cooperative or for any damage to the Cooperative's interest in Farley or any portion of Farley arising out of or resulting from any action taken or failed to be taken by the Company or any employee or agent of the Company pursuant to this agreement unless such loss, damage or expense results from gross negligence or the willful, wanton, or reckless misconduct of the Company or the failure of the Company to use its reasonable best efforts to conform to Good Utility Practice in discharging its obligations under this agreement. In the event the Company in the performance of its duties pursuant to this agreement incurs any liability to any third party, the amount paid by the Company on account of such liability will be considered an operating cost and apportioned between the parties.

Mr. Jesse S. Vogtle
June 24, 1983
Page 12

FARLEY CLAUSE

Uncontrollable Forces

Neither party shall be considered to be in default or liable to the other party in performance of any of the obligations hereunder, other than the obligation of either party to make payments under this agreement, if the failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the party affected and which, by the exercise of reasonable diligence, the party is unable to overcome, shall include but not be limited to an act of God, fire flood, explosion, strike, sabotage, an act of the public enemy, civil or military authority, including court orders, injunctions, and orders of government agencies with proper jurisdiction prohibiting acts necessary to the performance hereunder or permitting any such act only subject to unreasonable conditions, insurrection or riot, an act of the elements, failure of equipment or inability to obtain or ship materials or equipment because of the effect of similar clauses on suppliers or carriers. Nothing contained herein shall be construed so as to require settlement of any strike or labor dispute in which either party may be involved. A party rendered unable to fulfill any obligation by reason or controllable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

Mr. Jesse S. Vogtle
June 24, 1983
Page 13

FARLEY CLAUSE

No Adverse Distinction

Notwithstanding any other provision of this agreement, in discharging its responsibilities pursuant to this agreement, the Company shall make no adverse distinction between Farley and any other generating unit in which the Company has an ownership interest because of the co-ownership of Farley by the Company and Cooperative. Furthermore, the Company shall use its best efforts to see that no adverse distinction is made by the Southern Company regarding Farley due to the co-ownership of Farley by the Company and Cooperative.

(The above clause should be in each agreement, if there are separate agreements regarding ownership, operation and fuel.)

Mr. Jesse S. Vogtle
June 24, 1983
Page 14

FARLEY CLAUSE

Good Utility Practice

Both parties shall perform their obligations under this agreement in accordance with Good Utility Practice.

Good Utility Practice at a particular time means any of the practices, methods and acts, which, in the exercise of reasonable judgment and in light of the facts (including but not limited to the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry) known at the time a decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. In applying the standard of Good Utility Practice to any manner under this agreement, equitable consideration should be given to the circumstances, requirements, and obligations of each of the parties. It is recognized that Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather is a spectrum of possible practices, methods or acts. Good Utility Practice includes due regard for manufacturers' warranties, and shall apply not only to functional parts of Farley, but also to appropriate structures, landscaping, painting, signs, lighting, and other facilities.

Mr. Jesse S. Vogtle
June 24, 1983
Page 15

FARLEY CLAUSE

Taxes

To the extent possible, each party shall separately report, file returns with respect to, and be responsible for and pay all ad valorem, franchise, business, or other taxes and fees, except payroll and sales and use taxes, arising out of each party's ownership of Farley. However, to the extent that such taxes or fees may be levied on or assessed against the total plant, or its operation, or on the parties in such a manner so as to make impossible the carrying out of the foregoing provisions, or upon mutual agreement of the parties, then such taxes or fees shall be shared pro rata based upon the respective ownership percentages of the parties.

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OF COUNSEL
D. PAUL JONES, JR.

April 11, 1984

Mr. Charles R. Lowman
General Manager
Alabama Electric Cooperative, Inc.
P. O. Box 550
Andalusia, Alabama 36420

Dear Mr. Lowman:

Mr. Vogtle of Alabama Power Company has asked that I forward to you a draft of the proposed Purchase and Ownership Agreement between Alabama Electric Cooperative, Inc. ("AEC") and Alabama Power Company ("APCO") relating to the sale of an ownership interest in the Joseph M. Farley Nuclear Plant to AEC. As you will see from this draft, we also envision a Nuclear Fuel Agreement and an Operating Agreement which will form the Basic Agreements for satisfaction of License Condition 2 under the Farley Licenses. These other two agreements are being developed and should be available for your review soon.

You will also note that the Exhibits to the Purchase and Ownership Agreement have not yet been completed, but are being worked on as well. In particular, Exhibit I, specifying the price for the sale, is being revised and this should be available by the end of the month.

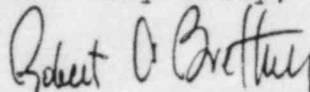
We felt it important to get these documents to you as they are completed rather than waiting to present them as a package when they are complete. We would appreciate your review and

BALCH BINGHAM BAKER WARD SMITH BOWMAN & THAGARD

Mr. Charles R. Lowman
April 11, 1984
Page Two

comments on them on an interim basis; however, we know you will want to look at the entire proposal relating to the sale of the plant before making any further commitment on the part of AEC.

Yours very truly,



Robert A. Buettner

RAB/jw
Enclosure

cc: ✓ D. Biard MacGuineas, Esq.
Mr. O. F. Rogers

PURCHASE AND OWNERSHIP AGREEMENT FOR JOINT OWNERSHIP
INTEREST IN THE JOSEPH M. FARLEY NUCLEAR
PLANT UNITS ONE AND TWO BETWEEN ALABAMA
POWER COMPANY AND ALABAMA ELECTRIC
COOPERATIVE, INC.

PURCHASE AND OWNERSHIP AGREEMENT
TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I - Definitions.....	3
1.01 Actual Cost of Funds During Construction.....	3
1.02 Agreement.....	3
1.03 Affiliates.....	3
1.04 Basic Agreements.....	3
1.05 Capacity.....	3
1.06 Capability.....	4
1.07 Common Facilities.....	4
1.08 Facilities.....	4
1.09 Farley Nuclear Plant.....	4
1.10 Farley Unit 1.....	4
1.11 Farley Unit 2.....	5
1.12 Immediately Available Funds.....	5
1.13 Indenture of Mortgage.....	5
1.14 Interest Rates.....	5
1.15 Lien.....	6
1.16 Members of AEC.....	6
1.17 New Investment.....	6
1.18 NRC.....	7
1.19 Nuclear Fuel.....	7
1.20 Nuclear Fuel Agreement.....	7
1.21 Operating Agreement.....	7
1.22 Operating Inventory.....	7
1.23 Percentage Ownership Interest of AEC.....	7
1.24 Percentage Ownership Interest of APCO.....	8
1.25 REA.....	8
ARTICLE II - Purchase of AEC's Percentage Ownership Interest.....	8
2.01 Purchase of AEC's Percentage Ownership Interest in the Facilities at Closing.....	8
2.02 Conveyances.....	8
2.03 Limitation of AEC's Rights as Tenant in Common.....	9
2.04 Entitlement to Capability.....	10
2.05 Modification of Capacity Entitlement.....	10
2.06 Second Mortgage Lien.....	11
2.07 Future Property Conveyances.....	11
ARTICLE III - Payments for AEC's Percentage Ownership Interest.....	12
3.01 Payment.....	12
3.02 Payments for Retirements and Decommissioning Costs: Option to Purchase the Facilities.....	13
3.03 Payment for Other Costs.....	15
3.04 Methods of Payment.....	16

	<u>PAGE</u>
ARTICLE IV - Representations and Warranties.....	17
4.01 Representations and Warranties of APCO.....	17
4.02 Representations and Warranties of AEC.....	17
4.03 Survival.....	19
ARTICLE V - The Closing and Closing Date.....	20
5.01 Time and Place.....	20
5.02 Termination of Liability.....	20
ARTICLE VI - Conditions to Closing.....	20
6.01 Conditions Precedent to APCO's Obligations....	20
6.02 Conditions Precedent to AEC's Obligations....	24
ARTICLE VII - Nuclear Fuel.....	27
7.01 Sale and Purchase of Nuclear Fuel.....	27
ARTICLE VIII - Management of the Facilities; "As-Is" Sale; Liability and Allocation of Risk; and Contracts for the Facilities.....	27
8.01 APCO as Agent for AEC.....	27
8.02 "AS IS" Sale.....	30
8.03 Contracts with Third Parties.....	31
8.04 Liabilities of the Parties.....	33
ARTICLE IX - General Covenants.....	37
9.01 Covenants to Provide Information.....	37
9.02 AEC's Covenant to Obtain Financing.....	37
9.03 Financial Statements and Other Documents.....	38
9.04 Other Covenants.....	39
ARTICLE X - Waiver of Partition and Other Rights.....	41
10.01 Waiver by AEC.....	41
10.02 Waiver of other Rights of Joint Tenancy.....	42
10.03 Waiver of Exercise of Eminent Domain.....	42
ARTICLE XI - Assignment.....	43
11.01 AEC's Right to Assign.....	43
11.02 Restriction on AEC's Rights to Sell or Otherwise Dispose of Facilities.....	44
11.03 Decommissioning Adjustment to Transfer Price.	47
11.04 APCO's Right to Assign.....	48
ARTICLE XII - Insurance.....	49
12.01 General.....	49

	<u>PAGE</u>
12.02 Nuclear Property Insurance.....	49
12.03 Nuclear Liability Insurance.....	50
12.04 General Liability Insurance.....	50
12.05 Workmen's Compensation Insurance.....	50
12.06 Additional Insurance.....	50
12.07 Allocation and Payment of Premiums.....	51
ARTICLE XIII - Destruction; Condemnation.....	52
13.01 Destruction.....	52
13.02 Condemnation.....	53
ARTICLE XIV - Force Majeure.....	54
14.01 Force Majeure.....	54
14.02 Remedy.....	55
ARTICLE XV - Default.....	56
15.01 Events of Default.....	56
15.02 Remedies for Late Payments.....	58
15.03 Acceleration.....	62
15.04 Impact of Default on Entitlement to Capacity until Cure.....	62
15.05 Remedies Not Exclusive.....	63
ARTICLE XVI - Special Remedies.....	64
16.01 Special Remedy.....	64
16.02 Rights and Obligations upon Repurchase or Transfer of Title.....	66
ARTICLE XVII - Term of Agreement.....	67
17.01 Termination.....	67
17.02 Measuring Lives.....	68
ARTICLE XVIII - Accounting Matters.....	68
18.01 General Accounting Matters.....	68
18.02 Right to Inspect Records, Etc.....	69
18.03 Other Audits.....	70
ARTICLE XIX - Consultations and Mutual Cooperation; Authorized Representatives.....	71
19.01 Consultations and Mutual Cooperation.....	71
19.02 Authorized AEC Representatives.....	71
19.03 Authorized APCO Representatives.....	72
ARTICLE XX - Miscellaneous.....	72
20.01 Non-Exclusive Sale.....	72

	<u>PAGE</u>
20.02 No Arbitration; Resolution of Disputes.....	72
20.03 Notices.....	73
20.04 Holidays, Business Days.....	74
20.05 Entire Agreement.....	74
20.06 Amendments.....	74
20.07 Relationship of the Parties.....	75
20.08 Tax Election.....	75
20.09 Governing Law.....	75
20.10 No Waiver.....	76
20.11 Captions.....	76
20.12 Counterparts.....	76
20.13 Singular and Plural; Gender.....	76
20.14 REA Required Clauses - Incremental Cost of Compliance; Remedies for Non-compliance...	76
(A)	
(B)	
(C)	
(1) Buy American.....	77
(2) Historic Places.....	79
(3) Flood Insurance Act.....	79
(4) Public Officials Not to Benefit...	80
(5) Kickbacks.....	80
(6) Equal Opportunity Clause.....	81
(7) Nonsegregated Facilities.....	83

PURCHASE AND OWNERSHIP AGREEMENT FOR JOINT OWNERSHIP
INTEREST IN THE JOSEPH M. FARLEY NUCLEAR
PLANT UNITS ONE AND TWO BETWEEN ALABAMA
POWER COMPANY AND ALABAMA ELECTRIC
COOPERATIVE, INC.

THIS AGREEMENT is made and entered into as of the _____
day of _____ 1984, by and between Alabama Power Company
(APCO), an Alabama corporation with its principal office at
600 North 18th Street, Birmingham, Alabama, and ALABAMA
ELECTRIC COOPERATIVE, INC. (AEC), an electric cooperative or-
ganized under Alabama law with its principal office at _____
_____, Andalusia, Alabama:

WITNESSETH

WHEREAS APCO is an electric utility organized and
existing under the laws of the State of Alabama; and

WHEREAS APCO has constructed and operates a nuclear plant
near Dothan, Alabama, referred to as the Joseph M. Farley
Nuclear Plant, Units 1 and 2, (the "Farley Nuclear Plant")
subject to the requirements of the licenses issued by the
Nuclear Regulatory Commission; and

WHEREAS AEC is a generation and transmission cooperative
organized and existing under the laws of the State of
Alabama; and

WHEREAS, on August 10, 1981, the Nuclear Regulatory Commission amended APCO's license for the Farley Nuclear Plant by requiring APCO to offer to sell to AEC an undivided ownership interest in the Farley Nuclear Plant; and

WHEREAS, in accordance with the foregoing, APCO has offered to sell to AEC, on the terms and conditions set forth herein, a 6.26 percent undivided ownership interest in the Farley Nuclear Plant; and

WHEREAS, the parties recognize that the transactions contemplated hereby were solely the product of administrative and judicial decrees designed to satisfy certain antitrust concerns by providing AEC with access to power generated by the Farley Nuclear Plant, and that such decrees were not intended to provide AEC with other incidents of joint ownership not explicitly granted herein which might otherwise accompany the sale of such an ownership interest; and

WHEREAS, AEC has agreed to the purchase from APCO on the terms and conditions set forth here, a 6.26 percent undivided ownership interest in the Farley Nuclear Plant.

WHEREAS, the parties agree that the undertakings contemplated by the Basic Agreements satisfy the requirements of the August 10, 1981 license condition amendment.

NOW, THEREFORE, in consideration of the premises and mutual obligations hereinafter stated, the parties hereto agree as follows:

ARTICLE I

Definitions

1.01 Actual Cost of Funds During Construction. The Actual Cost of Funds During Construction shall be that amount equal to the average cost of money to APCO during the period during which funds were invested by APCO in the Facilities being constructed.

1.02 Agreement. This Agreement for the sale of an ownership interest in the Joseph M. Farley Nuclear Plant Units 1 and 2 dated as of _____ between APCO and AEC.

1.03 Affiliates. Any corporation or other entity which controls, is controlled by, or is under common control with any party to this Agreement.

1.04 Basic Agreements. This Agreement, the Operating Agreement, and the Nuclear Fuel Agreement.

1.05 Capacity. The capability of producing energy, measured in megawatts.

1.06 Capability. The net summer or winter (as applicable) rating of Farley Unit 1 or Farley Unit 2, measured in megawatts, as determined by APCO.

1.07 Common Facilities. All those facilities, exclusive of Farley Unit 1, Farley Unit 2, Nuclear Fuel and Operating Inventory, which are purchased, leased or otherwise obtained only in connection with the construction, operation and maintenance of more than one nuclear unit located at the Joseph M. Farley Nuclear Plant. Common Facilities are more specifically described as of the date hereof in Exhibit "A".

1.08 Facilities. Farley Unit 1, Farley Unit 2, the Common Facilities and the Operating Inventory, but excluding Nuclear Fuel, which is the subject of the Nuclear Fuel Agreement.

1.09 Farley Plant. The nuclear generating plant located in Houston County, Alabama, which, for the purpose of this Agreement shall mean Farley Unit 1, Farley Unit 2, the Common Facilities and the Operating Inventory but excluding Nuclear Fuel which is the subject of the Nuclear Fuel Agreement. It is intended that this term be identical in meaning with the term "Facilities."

1.10 Farley Unit 1. The nuclear generating unit located in Houston County, Alabama, and designated as Farley Unit 1 (more specifically described in Exhibit "B" hereto), including the

surface interest in the land on which such unit is located, but excluding the Common Facilities, the Nuclear Fuel, the Operating Inventory, and Farley Unit 2.

1.11 Farley Unit 2. The nuclear generating unit located in Houston County, Alabama, and designated as Farley Unit 2 (more specifically described in Exhibit "C" hereto), including the surface interest in the land on which such unit is located, but excluding the Common Facilities, the Nuclear Fuel, the Operating Inventory, and Farley Unit 1.

1.12 Immediately Available Funds. Funds which are good and available to the payee on the date when paid.

1.13 Indenture. The Indenture dated as of January 1, 1942, from APCO to Chemical Bank, as trustee, as supplemented from time to time.

1.14 Interest Rates.

(a) The Special Interest Rate. A rate per annum equal to the prime rate of AmSouth Bank, N.A., Birmingham, Alabama, or its successor, in effect from time to time plus three percentage points (3%).

(b) The Regular Interest Rate. An interest rate per annum equal to the actual weighted cost of APCO's short term financing for the period in question or, if APCO has no short term financing outstanding at the time, the prime rate of

AmSouth Bank, N.A. as in effect from time to time. Short-term financing shall be all debt financing other than long term debt as defined by the Uniform System of Accounts.

1.15 Lien. Any encumbrance, lien, charge or security interest upon or in any of the facilities.

1.16 Members of AEC. For the purpose of this agreement those presently existing or future rural electric distribution cooperatives and municipal corporations and utility boards, and others which are members of AEC, their successors and assigns. For the purposes of this agreement, the presently existing AEC members shall mean those cooperatives, municipal entities and corporations, together with their respective delivery points, listed in Exhibit "D".

1.17 New Investment. The net book cost to APCO for all additions, improvements, betterments and replacements related to the Facilities incurred after the closing date, accounted for by APCO as utility plant under the uniform system of accounts. New investments shall not include Actual Cost of Funds During Construction in the case where AEC is paying its proportionate share of New Investment in accordance with the provisions of the Operating Agreement but shall include such Actual Cost of Funds in the case where APCO has previously incurred such a cost.

1.18 NRC. The Nuclear Regulatory Commission including any successor governmental agency having jurisdiction over the operation of the Farley Plant.

1.19 Nuclear Fuel. For the purpose of this agreement, nuclear fuel shall have the meaning defined in the Nuclear Fuel Agreement.

1.20 Nuclear Fuel Agreement. The Nuclear Fuel Agreement between APCO and AEC of even date herewith.

1.21 Operating Agreement. The Operating Agreement between APCO and AEC of even date herewith.

1.22 Operating Inventory. Equipment, spare parts (including spare parts in which APCO may have an interest because of an agreement for pooling of inventory with others), tools, goods and supplies (excluding Nuclear Fuel) which may be used for the operation, maintenance, modification of the Facilities and recorded on APCO's books of account in accordance with the Uniform System of Accounts.

1.23 Percentage Ownership Interest of AEC. Except as otherwise modified by the operation of the provisions of Articles XV and XVI hereof, an undivided ownership interest in the Facilities equal to 6.26% in each of Farley Unit 1, Farley Unit 2, the Common Facilities and the Operating Inventory.

1.24 Percentage Ownership Interest of APCO. Except as otherwise modified by the operation of the provisions of Articles XV and XVI hereof, an ownership interest equal to 93.74% in each of Farley Unit 1, Farley Unit 2, the Common Facilities and the Operating Inventory.

1.25 REA. The Rural Electrification Administration.

ARTICLE II

Purchase of AEC's Percentage Ownership Interest

2.01 Purchase of AEC's Percentage Ownership Interest in the Facilities at Closing. At Closing, subject to the terms and conditions set forth herein, APCO shall sell and convey and AEC shall purchase and pay for AEC's percentage ownership interest in the facilities at the Closing Date.

2.02 Conveyances. At Closing, APCO shall consummate the transfer of the Percentage Ownership Interest of AEC by delivery of:

- (a) A statutory warranty deed substantially in the form of Exhibit "E" hereto making APCO and AEC tenants in common but subject to the limitation on such tenancy in common as specified therein and in Section 2.03 hereof;

- (b) An assignment agreement substantially in the form of Exhibit "F" hereto transferring an undivided ownership interest in APCO's rights and obligations under those certain contracts, licenses and permits listed in Exhibit "F" hereto for the purchase, repair, construction, ownership and operation of the Facilities;
- (c) A bill of sale substantially in the form of Exhibit "G" hereto conveying an undivided ownership interest in all property listed thereon;
- (d) Releases of such undivided ownership interests in the Facilities from the lien of the Indenture of Mortgage.

2.03 Limitation on AEC's Rights as Tenant in Common. The parties recognize that the sale of an ownership interest in the Farley Nuclear Plant to AEC is the product of administrative and judicial orders designed to satisfy antitrust concerns by providing AEC with an ownership interest in the Facilities and not because APCO and AEC mutually determined that it would be in their respective best interests to enter into the arrangement contemplated hereby. Accordingly, APCO and AEC agree that the normal incidents of tenancy in common shall not be applicable to the conveyance of AEC's Percentage Ownership Interest, and that AEC shall have no rights as

tenant in common other than those specifically enumerated in the Basic Agreements.

2.04 Entitlement to Available Capacity. (a) After closing, except as otherwise provided in this Agreement, AEC and APCO shall be entitled to the available capacity of Farley Units 1 and 2 as follows:

APCO:	93.74%
AEC:	6.26%

(b) With respect to Farley Units 1 and 2, AEC shall be entitled to AEC's Percentage Ownership Interest of the available capacity in each such unit. Available capacity is defined as that capacity of the particular unit that is available for operation as determined by APCO. Reductions in unit capacity arising from any cause, including but not limited to, operating limitations or regulatory requirements, during any hour in a billing period, shall result in proportional reduction in AEC's share of the available capacity.

2.05 Modification of Capacity Entitlement. Notwithstanding the foregoing sections of this Article II, the parties' entitlement to available capacity and associated energy may be modified from time to time in accordance with the operation of Articles XV and XVI hereof and the procedures set forth in Article ____ of the Operating Agreement.

2.06 Second Mortgage Lien. In consideration of APCO's obligations to AEC under the Basic Agreements, AEC agrees to grant to APCO, at the Closing, a second mortgage lien on all property of AEC, including the Facilities, to secure the payment by AEC of those amounts due APCO pursuant to this Agreement, the Operating Agreement and the Nuclear Fuel Agreement. Such second mortgage lien shall be evidenced by a second mortgage and deed of trust substantially in the form of Exhibit "H" hereto. As set forth in Exhibit "H", the parties agree (i) that any default in the payment of money under AEC's first mortgage shall (after the expiration of the grace period provided for in Exhibit "H") be a default under the second mortgage granted hereunder, and (ii) that upon any such default under AEC's first mortgage, APCO shall be given timely notice by AEC of the occurrence of such default and APCO shall have the right to cure such default.

2.07 Future Property Conveyances. If, in the future, additional facilities must be built so as to constitute part of Farley Unit 1 or Farley Unit 2 on land to which AEC does not have an ownership interest, APCO shall convey to AEC its Percentage Ownership Interest in the surface of such land for an amount equal to AEC's Percentage Ownership Interest times APCO's total book costs. Should APCO desire to construct facilities, or make other use of any real property conveyed to AEC under this Agreement which facilities or use is not related to the Farley Plant, and should such facilities or use

not interfere with the Farley Plant operations, then AEC shall reconvey its ownership interest in that real property, free of any lien or encumbrance, at AEC's original cost of such land prorated on a per acre basis over all land acquired by AEC at closing. After the Farley Plant has been decommissioned, as determined by APCO, AEC shall, at APCO's option, reconvey its ownership interest in the real property, free of any lien or encumbrance, at AEC's original cost of such land prorated on a per acre basis over all land acquired by AEC at closing. AEC further agrees, at APCO's option, to convey to APCO, free of any lien or encumbrance, all interest in real property which has theretofore been conveyed to it which constitutes part of the Farley Plant, in the event of any default by AEC, such conveyance to be made in accordance with and under the circumstances described in Articles XV and XVI hereof. AEC hereby appoints APCO its attorney-in-fact to execute on its behalf any deed, or other instrument, in order to consummate any such conveyance.

ARTICLE III

Payments for AEC's Percentage Ownership Interest

3.01 Payment. (a) The purchase price of the Facilities shall be in the amount of _____ Dollars (\$ _____), which is allocated among the various elements constituting the price as reflected in Exhibit "I". At the Closing, AEC shall pay to APCO the purchase price for

AEC's Percentage Ownership Interest as prescribed in Exhibit "I" hereto.

3.02 Payments for Retirements and Decommissioning Costs:
Option to Purchase the Facilities. (a) APCO shall have the authority to determine when the any or all of the Facilities shall no longer be used or useful in the operation of the Farley Plant and when they shall be retired from service, with or without replacement. Cost of retirements and salvage credits from the sale or other uses, if any, shall be shared by the parties in proportion to their respective Percentage Ownership Interest; provided, however, APCO shall have a right to set-off any such salvage credits against any amount owed by AEC to APCO under the Basic Agreements or any other agreement between APCO and AEC.

(b) APCO shall retain such powers hereunder as shall be necessary for the disposition of all tangible and intangible property (excluding the land constituting a part of that facility) and shall dispose of such property as promptly as practicable. Upon such disposition, APCO shall distribute the proceeds thereof, if any, to AEC in accordance with its percentage ownership interest hereunder; provided, however, APCO shall have a right to set-off any such proceeds against any amount owed by AEC to APCO under the Basic Agreements or and other agreement between APCO and AEC.

(c) Upon the issuance of a lawful and enforceable order terminating the operation of any portion of the Facilities, from the Government of the United States or from the State or any of the departments, agencies, officials or courts thereof having jurisdiction, or upon a determination by APCO that the whole or any portion of the Facilities should be retired, the Parties shall bear all costs incurred for decommissioning in proportion to their respective Percentage Ownership Interests, as they may change from time to time (based on the principles governing such changes as reflected in Section 11.03), for whatever period of time is necessary, whether pursuant to regulatory requirements or otherwise, and to provide for any restoration of the site deemed appropriate by APCO, to complete the decommissioning and retirement process so that, in APCO's sole judgment, no further expenditure of funds is required. As security for payment of its obligation ultimately to pay its share of such decommissioning costs, AEC shall at all times maintain the agreements provided for in Section 4.02(b) and 4.02(e) in addition to the security provided in Section 2.06 hereof. Decommissioning costs shall include, but not be limited to, any costs which must be provided for in advance of decommissioning, and any additional costs which are incurred during or after decommissioning, including monitoring of the site, whether such costs shall result from regulatory requirements or otherwise.

(d) After decommissioning when either unit, or any portion of the real property constituting a part of the Facilities is to be retired, APCO will furnish written notice of such retirement and decommissioning to AEC. APCO shall have the option, which may be exercised by the giving of thirty (30) days written notice to AEC, to purchase such real property from AEC at the original cost to AEC for the land.

(e) After the decision to decommission has been made, APCO shall proceed with the decommissioning unless the Parties agree to enter into a separate agreement to decommission the Facilities. Any such agreement shall contain no provision which is inconsistent with any term of this Agreement.

3.03 Payment for Other Costs. The Parties agree to pay those costs relating to their respective ownership interests that are not otherwise provided for herein if such costs are incurred in the planning, design, engineering, construction, procurement, making of new investment, modification, ownership (including payment of any ad valorem or other taxes), retirement or decommissioning of the Facilities. To the extent possible, each party shall separately report, file returns with respect to, and be responsible for and pay all ad valorem, franchise, business, or other taxes and fees, except payroll and sales and use taxes, arising out of each party's ownership of Farley Plant. However, to the extent that such taxes or fees may be levied on or assessed against the total plant, or

its operation, or on the parties in such a manner so as to make impossible the carrying out of the foregoing provisions, or upon mutual agreement of the parties, then such taxes or fees shall be shared pro rata based upon the respective ownership percentages of the parties. AEC shall pay (or reimburse APCO if APCO has incurred) incremental costs experienced by APCO solely as a result of the sale to AEC of an ownership interest in the Farley Plant including, but not limited to: (a) the adverse impact on APCO of any tax legislation, or interpretation of tax laws; (b) special accounting requirements; (c) requirements of REA, or other governmental agency, which APCO would not have incurred but for AEC's participation.

3.04 Methods of Payment. All payments required to be made by either Party under this Agreement in excess of \$10,000 shall be paid on or before the payment date in immediately available funds by delivery (before 11:00 a.m., Birmingham time) of either a Federal Reserve check or evidence of bank wire to the other Party's account, at a bank designated by such Party. If any such payment is to be made by bank wire, the Party entitled to the payment shall advise the other Party of the appropriate bank and account number at least one business day before the payment is due. All other payments required to be made under this Agreement may be made by check deposited in the United States Mail three (3) days prior to the date due, first-class postage prepaid, and addressed to Treasurer,

Alabama Power Company, P. O. Box 2641, Birmingham, Alabama, 35291, if payable to APCO, and addressed to General Manager, Alabama Electric Cooperative, Inc., P. O. Box 550, Andalusia, Alabama, 36420, if payable to AEC unless a different addressee or address shall have been designated by either Party by notice in writing to the other Party.

ARTICLE IV

Representations and Warranties

4.01 Representations and Warranties of APCO. APCO represents and warrants as follows:

(a) APCO is a corporation duly incorporated and validly existing, in good standing, under the laws of Alabama.

(b) APCO has, or at the Closing will have, power to convey, by statutory warranty deed, title to AEC's Percentage Ownership Interest in the real estate and fixtures constituting the Facilities, free and clear of all liens, except for such exceptions as may exist in the titles acquired by APCO and Permitted Encumbrances.

4.02 Representations and Warranties of AEC. AEC represents and warrants as follows:

(a) AEC is a generation and transmission cooperative duly incorporated and validly existing, in good standing,

under the laws of Alabama; is duly qualified and authorized to do business; and is in good standing in each jurisdiction where the character of its properties or the nature of its actions makes such qualification necessary, and has the corporate power to carry on its business as now being conducted; and possesses all Federal and State authority and local franchises necessary for the maintenance and operation of its properties and business with such minor exceptions as will not materially interfere with the ownership and operation of the Facilities.

(b) Consummation of the transactions contemplated hereby and performance of the obligations imposed by the Basic Agreements by AEC will not result in violation of any laws, ordinances, or governmental rules to which it is subject. AEC either has obtained, or at the Closing Date shall have obtained, all necessary governmental approvals and consents (including the approval of REA) in connection with the consummation by AEC of the transactions hereby contemplated and the performance by it of the Basic Agreements and REA has entered into and will be bound by the Guaranty Agreement set forth in Exhibit "J" attached hereto.

(c) The consummation of the transactions hereby contemplated and the performance by AEC of the Basic Agreements will not result in the breach of, or constitute a default under,

the Articles of Incorporation or By-Laws of AEC or any indenture, mortgage, deed of trust, bank loan or credit agreement, or other agreement or instrument to which AEC is a party or by which AEC or its properties may be bound or affected, or result in the creation of any lien, charge, security interest or encumbrance upon any property of AEC (other than any lien, charge, security interest or encumbrance created by AEC as a result of its purchase of AEC's Percentage Ownership Interest at the Closing and other than Permitted Encumbrances), and AEC is not in default under any term of any such agreement or instrument.

(d) On the date hereof there exists, as to AEC, no Event of Default or event or condition which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

(e) Each of AEC's Members has entered into and will be bound by the Special Guaranty Agreement set forth in Exhibit "K" attached hereto on the Closing Date.

4.03 Survival. All representations and warranties made by the Parties in or under the Basic Agreements (and all representations and warranties contained in any certificate or other instrument delivered by any of the Parties pursuant to the Basic Agreements) shall survive the execution and delivery of the Basic Agreements and any action taken or documents delivered pursuant thereto.

ARTICLE V

The Closing and Closing Date

5.01 Time and Place. The Closing shall be held commencing at 10:00 a.m., Birmingham, Alabama time, on such date on or before December 31, 1984 as the Parties shall agree, at 600 North 18th Street, Birmingham, Alabama, provided that, pursuant to Article VI hereof, all conditions precedent to Closing have occurred, unless waived by the Party benefitted thereby. AEC hereby agrees to close promptly upon obtaining the financing that it has covenanted to obtain in accordance with Section 9.02 hereof. Since time is of the essence, the Closing shall not be later than December 31, 1984.

5.02 Termination of Liability. If the conditions specified in Article VI hereof shall not have been satisfied on or before December 31, 1984, all liability of the Parties under this Agreement shall terminate other than each Party's liabilities for its own expenses.

ARTICLE VI

Conditions to Closing

6.01 Conditions Precedent to APCO's Obligations. All obligations of APCO to AEC are subject to the fulfillment, on or prior to the Closing, of each of the following conditions:

(a) All instruments relating to the sale and purchase of AEC's Percentage Ownership Interest, and all proceedings taken on or prior to the Closing in connection with the performance of the Basic Agreements shall be satisfactory to APCO and APCO shall have received copies of all such documents or other evidence as it may reasonably request in order to establish the rightful consummation of such transactions and the taking of all necessary action in connection therewith, in form (as to certification and otherwise) and substance satisfactory to APCO.

(b) All representations and warranties of AEC in or under the Basic Agreements (and all representations and warranties contained in any certificate or other instrument delivered by AEC pursuant to the Basic Agreements) shall be true with the same effect as though such representations and warranties had been made on and as of such date (except as affected by transactions contemplated by the Basic Agreements) and AEC shall have performed all agreements on its part required by the Basic Agreements to be performed on or prior to such date; and APCO shall receive a certificate, dated such date, of the President and General Manager of AEC and by a nationally recognized independent accounting firm, to such effect.

(c) APCO shall have obtained all necessary releases and other required documents from the trustee under the Indenture

of mortgage permitting the conveyances pursuant to Article II hereof, accompanied by an opinion of counsel of the trustee substantially to the effect that such trustee has the corporate power and authority to execute and deliver such releases and other documents and that such releases and other documents have been duly executed and delivered and constitute the legal, valid and binding obligations of such trustee enforceable against it in accordance with their terms.

(d) The following governmental and regulatory approvals required to be obtained prior to the Closing by APCO and AEC shall have been obtained and shall not have been modified (unless any such modification shall have been accepted in writing by the Parties) or rescinded, are in full force and effect and all appeal periods shall have expired, such approvals to be evidenced by the delivery to APCO and AEC of certification of the governmental approvals referred to in this Article:

The Alabama Public Service Commission

The Alabama Department of Finance

REA

NRC

and such approvals shall not contain any conditions unacceptable to APCO.

(e) APCO shall have received a written ruling from the Internal Revenue Service satisfactory in form and content to

APCO, to the effect that for Federal income tax purposes only (i) the arrangement created by the Basic Agreements will be treated as a partnership and not as an association taxable as a corporation and that APCO and AEC may elect to exclude such arrangement from the application of Subchapter K of the Internal Revenue Code of 1954, as amended, and (ii) as a result of the Basic Agreements APCO will not be denied the right to any investment tax credits, liberalized depreciation or other available tax benefits with respect to its ownership interest.

(f) AEC and each of AEC's Members shall have executed and delivered to APCO a release and covenant not to sue, substantially in the form of Exhibit "L" hereto, together with certified resolutions of the respective Boards of Directors authorizing such execution and delivery.

(g) APCO shall have received a satisfactory certificate or certificates, each signed by appropriate officers of AEC and dated as of the Closing Date, as to all questions of fact involved in the conditions set forth in this Section 6.01.

(h) APCO shall have received the Special Guaranty Agreements of AEC's Members and the Guaranty Agreement of REA.

(i) APCO shall have received opinions of counsel for AEC, dated the Closing Date, substantially in the forms of Exhibits "M" and "N" hereto.

(j) APCO shall have received a certified copy of resolutions duly adopted by the Board of Directors of AEC ratifying or approving all of the transactions contemplated by the Basic Agreements.

(k) AEC shall have made available in immediately available funds the purchase price required to be paid at the Closing, as required by Section 3.01.

(l) All actions required to be taken by REA to permit the consummation of this Agreement shall have been taken and APCO shall have received evidence, satisfactory to it, that a loan agreement between AEC and the REA or other lender(s) satisfactory to APCO has been duly executed and is a legal, valid and binding obligation of AEC, the REA or other lender(s) sufficient to finance AEC's Percentage Ownership Interest at the time of Closing, in the Facilities.

6.02 Conditions Precedent to AEC's Obligations. All obligations of AEC to APCO are subject to fulfillment, on or prior to the Closing, of each of the following conditions:

(a) All instruments relating to the sale and purchase of AEC's Percentage Ownership Interest and all proceedings taken on or prior to the Closing in connection with the performance of the Basic Agreements shall be satisfactory to AEC and AEC shall have received copies of all such documents.

(b) All representations and warranties by APCO in or under the Basic Agreements (and all representations and warranties contained in any certificate or other instrument delivered by APCO pursuant to the Basic Agreements) shall be true with the same effect as though such representations and warranties have been made on and as of such date (except as affected by transactions contemplated by the Basic Agreements), and APCO shall have performed all agreements on its part required by the Basic Agreements to be performed on or prior to such date; and AEC shall receive a certificate, dated such date, of an Executive Vice President and a principal financial or accounting officer of APCO to such effect.

(c) APCO shall have obtained all necessary releases and other required documents from the trustee under the Indenture permitting the conveyance pursuant to Article II hereof.

(d) The following governmental and regulatory approvals required to be obtained prior to the Closing by APCO and AEC shall have been obtained and shall not have been modified (unless any such modification shall have been accepted in writing by the Parties) or rescinded, are in full force and effect and all appeal periods shall have expired, such approvals to be evidenced by the delivery to APCO and AEC of certification of the governmental approvals referred to in this Article:

The Alabama Public Service Commission

The Alabama Department of Finance

REA

NRC

and such approvals shall not contain any conditions unacceptable to AEC.

(e) AEC shall have received a written opinion of its counsel, satisfactory in form and content to AEC to the effect that for Federal income tax purposes only (i) the arrangement created by the Basic Agreements will be treated as a partnership and not as an association taxable as a corporation and that AEC and APCO may elect to exclude such arrangement from the application of Subchapter K of the Internal Revenue Code of 1954, as amended, and (ii) as a result of the Basic Agreements (provided AEC otherwise qualifies for such tax benefits) AEC will not be denied the right to any investment tax credits, liberalized depreciation or other available tax benefits with respect to its ownership interest.

(f) AEC shall have received a satisfactory certificate or certificates, each signed by appropriate officers of APCO and dated the Closing Date, as to all questions of fact involved in the conditions set forth in this Section 6.02.

(g) The Special Guaranty Agreements of AEC's Members and the Guaranty Agreement of REA shall be in full force and effect.

(h) AEC shall have received an opinion of counsel for APCO, dated the Closing Date, substantially in the form of Exhibit S hereto.

(i) AEC shall have received a certified copy of resolutions duly adopted by the Board of Directors of APCO ratifying or approving all of the transactions contemplated by the Basic Agreements.

ARTICLE VII

Nuclear Fuel

7.01 Sale and Purchase of Nuclear Fuel. The sale by APCO and the purchase by AEC of Nuclear Fuel is provided for in the Nuclear Fuel Agreement and not by this Agreement, except to the extent that (a) provisions of this Agreement specifically refer to Nuclear Fuel or the Nuclear Fuel Agreement, or (b) provisions of this Agreement are incorporated by reference in the Nuclear Fuel Agreement.

ARTICLE VIII

Management of the Facilities; "As-Is" Sale;

Liability and Allocation of Risk; and

Contracts for the Facilities

8.01 APCO as Agent for AEC. (a) AEC hereby appoints APCO (such appointment shall be irrevocable, for the term of this

Agreement, and coupled with an interest) its sole agent subject only to AEC's right of reasonable inspection through authorized representatives at times agreeable to APCO, to act on its behalf for the planning, design, engineering, construction, procurement and making of New Investment, and the modification, operation, maintenance, retirement and decommissioning of the Facilities and authorizes APCO in the name of and on behalf of AEC to take all actions which, in the discretion and judgment of APCO, are deemed necessary or advisable to effect the planning, design, engineering, construction, procurement, making of New Investment, modification, operation, maintenance, retirement and decommissioning of the Facilities, including, without limitation, the following:

(i) The making of such agreements and modifications of existing agreements and the taking of such other action as APCO deems necessary or appropriate, in its sole discretion, or as may be required under the regulations or directives of such governmental bodies and regulatory agencies having jurisdiction, with respect to the construction, acquisition and completion of any additions, improvements, betterments and replacements related to the Facilities, or the procurement, replacement, modification or renewal of all or any part of the Farley Plant, and if necessary, the retirement, disposal, decommissioning or salvaging of any part thereof.

(ii) The execution and filing with such governmental bodies and regulatory agencies having jurisdiction of applications, amendments, reports and other documents and filings for or in connection with licensing and other regulatory matters with respect to Facilities; and

(iii) The receipt on AEC's behalf of any notice or other communication from any governmental body or regulatory agency having jurisdiction, as to any licensing or other regulatory matter with respect to Facilities.

(iv) Subject to Section 8.03, the right to bring suit on behalf of AEC or AEC and APCO jointly for any cause of action arising out of or in connection with rights or obligations under the Basic Agreements.

(b) As relates to all third parties, this agency designation shall be binding on AEC and such appointment shall be deemed in effect by each third party until termination of this Agreement pursuant to the terms hereof and such third party receives written notification from APCO of any termination thereof.

(c) APCO accepts such appointment.

(d) AEC shall promptly take all necessary action to execute any agreements with respect to the Facilities as and when requested by APCO.

(e) AEC expressly agrees that APCO does not, by this Agreement, assume any risks or liabilities with respect to AEC's Percentage Ownership Interest and that the amounts paid and payable to APCO under the Basic Agreements are determined on the basis that APCO does not assume any such risks or liabilities.

8.02 "AS IS" SALE. THE FACILITIES TO BE SOLD UNDER THIS AGREEMENT SHALL BE SOLD ON AN "AS IS - WHERE IS" BASIS. APCO AND APCO'S AFFILIATES MAKE NO WARRANTY OR REPRESENTATION WHATSOEVER, EXPRESS, IMPLIED OR STATUTORY, AND DISCLAIM ANY AND ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO THE VALUE, QUANTITY, QUALITY, CONDITION, SALABILITY, OBSOLESCENCE, MERCHANTABILITY, FITNESS OR SUITABILITY FOR USE OR WORKING ORDER OF ALL OR ANY PART OF SAID FACILITIES. NOTWITHSTANDING THE FOREGOING, AEC SHALL HAVE THE BENEFIT, IN PROPORTION TO AEC'S PERCENTAGE OWNERSHIP INTEREST, OF ALL MANUFACTURERS', VENDORS', AND CONTRACTORS' WARRANTIES AND ALL PATENTS AND LICENSES, IF ANY, RUNNING TO APCO IN CONNECTION WITH THE FACILITIES TO BE SOLD UNDER THIS AGREEMENT, SUBJECT TO THE PROVISIONS OF SECTION 8.03 HEREOF DEALING WITH CONTRACTS WITH THIRD PARTIES. NEITHER AEC NOR AEC'S MEMBERS SHALL HAVE ANY RIGHT OF ACTION AGAINST APCO OR

APCO'S AFFILIATES UNDER ANY THEORY, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, STRICT LIABILITY, WARRANTY (EXPRESS OR IMPLIED) BREACH OF CONTRACT, FRAUD OR MISREPRESENTATION, BASED ON THE CONDITION OF THE FACILITIES AT CLOSING.

8.03 Contracts with Third Parties.

(a) Assignment. APCO has acquired or executed, and will in the future acquire or execute, certain contracts, permits, authorizations, licenses, or other intangible rights relating to the Farley Plant. By execution of this Agreement, APCO shall, as of the Closing, be deemed to have granted, conveyed, and assigned to AEC, to the extent permitted by law, contract, or otherwise, an undivided interest in such existing or future contracts, permits, authorizations, licenses, or other intangible rights with respect to the Farley Plant, equal to the Percentage Ownership Interest of AEC, and AEC shall be deemed to have been granted such an undivided Percentage Ownership Interest of the benefits, and to have accepted and assumed a Percentage Ownership Interest of the obligations, of all such contracts, permits, authorizations, licenses, or other intangible rights. AEC agrees to be bound by the terms of all contracts, permits, authorizations, or licenses relating to the Farley Plant (including any provisions that limit or protect against liability, nuclear and non-nuclear, or exclude any warranties) to the same extent as if AEC were an original signatory to such contract, permit, authorization or license or otherwise a party thereto.

(b) Acceptance of Contract Provisions. APCO in such contracts has agreed to certain matters including, but not limited to, limitations on the liability of such contractors for work performed or materials furnished, restrictions on warranties, agreements to indemnify the contractors from liability and other provisions. AEC waives any claims against APCO for having entered into such contracts or agreed to the provisions thereof. AEC also recognizes that a number of the APCO contracts relating to the Farley Plant contain provisions that require APCO to obtain from any assignee or transferee prior to any assignment of rights under such contract or any transfer of materials, equipment or work product, or any interest therein obtained by APCO pursuant to such a contract, an agreement by such assignee or transferee that it will be bound by all of the requirements for financial protection, waivers, releases, indemnifications, limitations of liability and further transfers or assignments that bind APCO under such contracts. AEC agrees that it will be so bound by the requirements for financial protection, waivers, releases, indemnification, limitation of liability and further transfers that bind APCO as they now exist or may in the future be with respect to all contracts relating to the Farley Plant or Nuclear Fuel.

(c) Enforcement of Rights Under Contracts. AEC covenants that, without the written consent of APCO, it will not threaten suit or bring suit against third parties or otherwise

make any claim under any contract or arrangement relating to the Farley Plant and AEC recognizes that APCO has complete and exclusive authority, under the Agreements, with respect to all such matters. If AEC desires for suit to be threatened or brought or otherwise for any claim to be made, or desires that such action contemplated by APCO shall not be taken, AEC shall, by written notice to APCO, request APCO so to act or refrain from acting. Upon receipt of such notice the Parties shall arrange for consultation within ten (10) working days thereafter on the questions raised, or such lesser period of time as APCO, in its sole discretion, shall specify in the light of circumstances requiring a more expeditious determination. APCO shall not make its determination until such consultation but such determination by APCO shall be final and binding on AEC.

8.04 Liabilities of the Parties. (a) All liability to third parties other than liability for Willful Misconduct as defined in paragraph (b) hereof, whether arising in contract (including breach of warranty), tort (including fraud, negligence, strict liability, breach of fiduciary duty or any other theory of tort liability), under the laws of real property or otherwise, or as a result of fines or other penalties imposed by NRC or any other federal or state agency, which results from or is in any way connected with construction, operation, maintenance, modification, or decommissioning of the Facilities shall be shared and apportioned between APCO and AEC in

proportion to their respective Percentage Ownership Interests. To the extent of their respective Percentage Ownership Interests, APCO and AEC each shall indemnify and hold harmless the other, their agents, servants, employees, affiliates or insurers from and against any and all claims, losses, damages, expenses and costs of any kind, other than those attributable to Willful Misconduct of either APCO or AEC as defined in paragraph (b) hereof, whether direct or indirect, on account of or by reason of bodily injuries (including death) to any person or persons or property damage arising out of or occurring in connection with the construction, operation, maintenance, modification or decommissioning of the Facilities, whether or not such claims, losses, damages, expenses or costs were caused by or alleged to have been caused by or contributed to by the active, passive, affirmative, sole or concurrent negligence or by breach of any statutory or other duty (whether non-delegable or otherwise) of APCO or AEC or their agents, servants, employees or affiliates.

Except as expressly authorized in this paragraph (a) and by the provisions of the Basic Agreements, APCO and AEC and their affiliates, servants, employees, agents and insurers hereby release, acquit and forever discharge the other, their agents, servants, employees, affiliates and insurers from any and all claims, causes of action, damages or expenses of whatever kind or nature, which are in any manner connected with the design, engineering, construction, operation, modification

or decommissioning of the Facilities, whether arising in tort (including fraud, negligence, strict liability, breach of fiduciary duty or any other theory of tort liability), contract (including breach of warranty), under the laws of real property or otherwise, or as a result of any fine or other penalty imposed by NRC or any other federal or state agency.

(b) As used in this Agreement, the term Willful Misconduct shall mean any act or omission by APCO or AEC or their affiliates, agents, servants or employees, which is performed or omitted consciously with actual knowledge that such conduct is likely to result in damage or injury to persons or property; provided, however, that no such act or omission, if performed or omitted by an employee, servant, agent, or affiliate of a party, shall be deemed Willful Misconduct of a party unless an employee or officer of such party at or above the level of Vice President in the case of APCO or _____ in the case of AEC shall have expressly authorized such act or omission.

Liability attributable solely to the Willful Misconduct of either APCO or AEC shall not be shared pro rata in accordance with paragraph (a) hereof but shall instead be borne by the party committing such willful act or omission. All other misconduct of any kind or nature shall be apportioned between the parties in accordance with paragraph (a) hereof.

(c) Notwithstanding paragraphs (a) and (b) hereof, in no event shall either party or their affiliates be liable to the other party for any indirect, special, incidental or consequential damages including, without limitation, (1) loss of profits or revenues, (2) damages suffered as a result of the loss of the use of its power system, production facilities or equipment, (3) cost of purchase of replacement power (including any differential in fuel costs), (4) cost of capital, or (5) any other damages resulting from non-operation of the Facilities with respect to any claim based on or in any way connected with the Basic Agreements whether arising in contract (including breach of warranty), tort (including fraud, negligence, strict liability, breach of fiduciary duty or any other theory of tort liability), under the laws of real property or otherwise, or as a result of any fine or other penalty imposed by NRC or any other federal or state agency.

AEC shall indemnify and hold harmless APCO and APCO's affiliates from and against any claim by the AEC Members or member-consumers of AEC Members for any such indirect, special, incidental or consequential damages arising out of any performance or failure to perform under the Basic Agreements. APCO shall indemnify and hold harmless AEC from and against any claim by APCO's customers (other than AEC or AEC Members) for any such indirect, special, incidental or consequential damages arising out of any performance or failure to perform under the Basic Agreements.

ARTICLE IX

General Covenants

9.01 Covenants to Provide Information. Each of the Parties will, from time to time, provide such information as the other Party may reasonably require in connection with the issuance or sale of any bonds or securities or evidences of indebtedness, whether public or private. Each Party further agrees that it will make available to the other Party, upon reasonable request, then-current architectural and construction engineering reports, if any, setting forth the design of the Facilities, the status of any required licenses and permits, estimates of construction costs and construction schedules and reports on the operation of the Facilities.

9.02 AEC's Covenant to Obtain Financing. AEC has applied to REA for guarantees of loans adequate for the permanent financing of AEC's Percentage Ownership Interest in the Facilities. AEC agrees to pursue such application diligently and to use its best efforts to obtain this or other adequate permanent financing and to close by December 31, 1984. Upon granting of the REA loan guarantee commitment, AEC covenants and agrees to accept such loan guarantee commitment and to take all steps within its power to issue bonds or other securities or other evidences of indebtedness, or otherwise to obtain sufficient funds in a timely manner, in order to provide the amounts due from and payable by AEC at the Closing

under the terms of the Basic Agreements. AEC further covenants and agrees that at all times it will use its best effort to obtain sufficient funds in a timely manner, on terms satisfactory to AEC in its reasonable and good faith judgment, to fulfill its obligations under the Basic Agreements. AEC further covenants and agrees that it shall take no action that would prevent, hinder or delay the issuance of any bonds or other securities or evidence of indebtedness, and that it will make all payments and perform all obligations required of it under the indentures or other instruments relating to such bonds or securities or evidences of indebtedness. AEC further covenants and agrees that it shall not incur, create, assume or permit to exist any Lien for borrowed money upon any of the Facilities unless each creditor secured by such Lien has theretofore agreed in a writing addressed to APCO that (a) any interest acquired by APCO in the Facilities, pursuant to either Section 15.02 or 16.01 as a result of a Section 15.02 Event of Default, shall be released by such creditor from, and shall be free and clear of, such Lien upon (i) payment of the purchase price to AEC as provided in Section 15.02(c), in the case of a purchase, or (ii) notice to AEC as provided in Section 16.01, in the case of an automatic adjustment of AEC's Percentage Ownership Interest.

9.03 Financial Statements and Other Documents. (a) APCO covenants and agrees that it will furnish to AEC promptly

after the same are available, copies of all such proxy statements, financial statements and reports as APCO shall send to the holders of its Common Stock and copies of all regular and periodic reports that APCO may file with the SEC.

(b) AEC covenants and agrees to furnish APCO promptly after the same are available, copies of all annual and periodic financial reports that AEC may file with the Alabama Department of Finance, REA or FERC or shall send to the AEC Members, including proxy statements or the equivalent thereof. In addition, AEC shall furnish APCO promptly with copies of all draft agreements and executed agreements relating to the arrangements referred to in Section 9.02.

9.04 Other Covenants. (a) Each Party covenants and agrees that if any event shall occur or condition shall exist which constitutes, or which after notice, lapse of time, or both, would constitute an Event of Default hereunder, it shall immediately (and thereafter on a prompt, continuing basis) notify the other Party thereof, specifying the nature of the Event of Default and any action taken or proposed to be taken with respect thereto.

(b) AEC covenants and agrees that at the Closing it will notify APCO in writing of the names and addresses of each trustee under any instruments of indebtedness and it further covenants and agrees that at all times while this Agreement

remains in effect, it will promptly notify APCO in writing of the names and addresses of all substitute or additional trustees.

(c) AEC covenants that so long as any of the Basic Agreements remain in effect, it will not dissolve. AEC further covenants that it will not consolidate or merge with or acquire any other entity unless it has provided APCO with a certificate to the effect that, (i) as a result of such consolidation, merger, or acquisition, the successor formed by or resulting from such consolidation or merger or the transferee to which such sale shall have been made shall be a solvent corporation organized under the laws of the United States of America or a state thereof, (ii) such successor or transferee corporation shall expressly assume in writing all of the obligations of AEC under the Basic Agreements to the same extent as if such successor or transferee corporation had originally executed the Basic Agreements in the place of AEC, (iii) immediately after such consolidation, merger, sale, or transfer, such successor or transferee shall have a credit worthiness and financial capability to perform its obligations under the Basic Agreements substantially equal to the credit worthiness or financial capability of AEC, and (iv) there shall be no Event of Default or event which, with the giving of notice or the lapse of time or both, could become an Event of Default under the Basic Agreements.

(d) Subject to APCO's rights under Sections 3.02, 8.01 and 13.01(b), APCO covenants to use its best efforts to maintain in effect, and to renew when necessary, all NRC permits and licenses required for the ownership and operation of the Facilities.

(e) APCO covenants to permit officers, directors, employees and proper agents of AEC to have access to and to inspect the Facilities at reasonable times; provided (i) AEC shall give APCO advance notice of any visit to the Facilities and to coordinate with APCO to minimize or avoid any interference with APCO's activity at the Facilities, (ii) APCO may require that any such visit be escorted by APCO personnel, and (iii) such visits shall be made in accordance with all APCO, NRC and other governmental agency regulations, procedures and requirements.

ARTICLE X

Waiver of Partition and Other Rights

10.01 Waiver by AEC. AEC, on its own behalf and on behalf of its successors and assigns, hereby waives any right, whether pursuant to statute or common law, to partition the Facilities, or any portion thereof, and any right to petition for sale for division of the Facilities, and such waiver shall continue in effect until the later of (a) the termination of this Agreement pursuant to Section 17.01 during which APCO may

exercise the option provided for in Section 2.07, or (b) December 31, 2084. AEC agrees not to commence during such period any action of any kind seeking any form of partition or sale for division with respect thereto. AEC agrees to incorporate this waiver in all deeds, deeds of trust, and instruments of conveyance relating to the Facilities, whether delivered at the Closing or thereafter.

10.02 Waiver of other Rights of Joint Tenancy. AEC further waives all other incidents of joint ownership, including but not limited to the right to share in profits from the jointly owned property and accounting therefor, right to use or occupy the premises for uses which do not interfere with any joint use being made of the property, and the right to make expenditures for the benefit of the property and associated rights to demand contribution by APCO to AEC as a result of such expenditures. AEC shall enjoy, nevertheless, all rights associated with its joint ownership which are provided for in the Basic Agreements.

10.03 Waiver of Exercise of Eminent Domain. Both parties agree to waive any right to exercise the power of eminent domain that either party may have with respect to the other party's interest in the Farley Plant. The inclusion of this provision of this Agreement does not acknowledge or admit that either party has the right of eminent domain over the other party.

ARTICLE XI

Assignment

11.01 AEC's Right to Assign. This Agreement and the other Basic Agreements shall be binding upon, and shall inure to the benefit of AEC and APCO, and their respective successors and assigns. AEC shall have the right, subject to the last sentence of Section 9.02, to convey a security interest or interests in AEC's Percentage Ownership Interest to the United States Government or any agency thereof solely to secure loans, or bonds or other evidences of indebtedness issued or to be issued by it, if (a) the proceeds from such loans, bonds or evidences of indebtedness are to be used first to meet AEC's due and unpaid obligations under the Basic Agreements, and (b) immediately after the conveyance of any such security interest, the aggregate amount of all Liens then existing against all of AEC's real and personal property, including the Facilities, shall not exceed ninety percent (90%) of the then aggregate fair market value of all AEC's real and personal property, including the Facilities, with such fair market value to be certified by an independent engineer satisfactory to the Parties. In addition, AEC may request APCO to consent to the assignment of AEC's rights under this Agreement to other parties, solely for financing purposes, and APCO agrees that it will not unreasonably withhold its consent, taking into consideration all aspects of the proposed assignment at that time, including but not limited to consideration of the

last sentence of Section 9.02. AEC shall notify APCO in writing as soon as possible after learning that any Lien has been or will be imposed upon AEC's Percentage Ownership Interest or has reason to believe that any such Lien is under discussion with a possible lender or other entity and shall furnish APCO promptly with all draft copies and executed copies relating thereto. In addition, AEC shall have the right to assign the obligations and benefits under the Basic Agreements to the REA, pursuant to law, for the benefit of the AEC Members. No other succession to or assignment of any rights hereunder or under the other Basic Agreements or any rights in the Facilities shall take place without the prior written consent of APCO.

11.02 Restriction on AEC's Rights to Sell or Otherwise Dispose of Facilities. (a) Unless otherwise agreed to in writing by APCO, or as provided in this Section 11.02, AEC shall not have the right to sell or otherwise dispose of any or all of the Facilities to any party other than APCO, its successors or assigns. Should AEC desire to sell or otherwise dispose of any or all of the Facilities, AEC shall notify APCO of such desire in writing. Upon receipt of any such notice, APCO shall have sixty (60) days from receipt of the notice in which to determine whether it wishes to acquire from AEC any percentage of any of the Facilities then owned by AEC. If APCO determines that it wishes to purchase any or all of such Facilities, it shall have the right to do so at the price

determined in accordance with subsection 11.02(b) below. If APCO elects to purchase the Facilities, Closing for such purchase shall be conducted on a date mutually agreeable to the parties, not in excess of ninety (90) days from the date APCO elects to purchase the Facilities. AEC shall convey such Facilities to APCO by statutory warranty deed. If APCO elects not to purchase any or all of the Facilities, AEC may secure offers to purchase from third parties for the acquisition of AEC's interest therein. Such offers must be received by AEC and copies of such offers must be transmitted to APCO within one hundred twenty (120) days after any election by APCO not to purchase. If any offer desired to be accepted by AEC is less than the amount which APCO would have paid under subsection 11.02(b), AEC shall notify APCO of such desire in writing prior to the expiration of such one hundred twenty (120) day period. APCO shall have the right to purchase such Facilities at the price offered by such third party, such election to be made by APCO within sixty (60) days after notice thereof is given by AEC of its desire to sell at such lower price. In the event APCO elects to purchase at such lower price, the sale of such Facilities shall be conducted within ninety (90) days after APCO elects to purchase. In the event an offer desired to be accepted by AEC is more than that which APCO would have paid under subsection 11.02(b), or in the event such offer is lower and APCO elects not to purchase as provided above, AEC shall have the right to sell its Percentage Ownership Interest in the Facilities or portion thereof not

sold to APCO to a third party. In the event any such sale to a third party is not completed within one (1) year after AEC first gives notice of its desire to sell, AEC shall not be entitled to make such sale until the procedure set forth herein has been complied with in full. In the event a sale is made by AEC of its interest to a third party pursuant to the provisions hereof, the same restrictions on alienation or assignment of its interest in the plant shall be applicable to such third party. In no event of sale to a third party shall AEC be relieved of the obligations to be performed by AEC under the Basic Agreements except to the extent such obligations are actually satisfied by the third party to whom such Percentage Ownership Interest is conveyed.

(b) The purchase price for such interest as APCO elects to acquire shall be an amount equal to the aggregate of the purchase price made or owed by AEC with respect to the Facilities or portions thereof to which such election relates, including appropriate allowances for Actual Cost of Funds During Construction of New Investments less the sum of (i) an amount equal to the revenues required (based on the then allowed rate of return for Alabama jurisdictional customers) to support any amount in default (such amount to be stated without taking any depreciation into account) for the entire period of any such default, less an adjustment for any interest theretofore paid on account of the amount in default, (ii) taxes paid by AEC and included in the Purchase Price or

otherwise paid with respect to the Facilities and additional taxes incurred as a result of the repurchase, (iii) depreciation and amortization accrued on the books of account of AEC, comprised of depreciation reflected in the determination of the Purchase Price (but depreciation reflected in the determination of the Purchase Price shall not be deleted a second time in the application of this Subsection (iii)) and depreciation subsequent thereto determined in accordance with the same methodology used by APCO, excluding amortization applicable to taxes reflected in (ii) above, (iv) any amount, including taxes not included in (ii) above, owed by AEC under the Basic Agreements to APCO, (v) any costs or expenses incurred by APCO, excluding the cost of any debt incurred to finance such acquisition, in connection with such purchase and any indebtedness secured by Liens with respect to the interest in the Facilities being acquired and any other obligation assumed or paid by APCO in order to obtain good title, (vi) any retirements applicable to AEC's Percentage Ownership Interest in the Facilities, and (vii) the Decommissioning Adjustment to Transfer Price calculated in accordance with Section 11.03 hereof.

11.03 Decommissioning Adjustment to Transfer Price. With respect to any transfer hereafter of an interest between the parties hereto which alters the Percent Ownership Interest of the parties in any or all of the Facilities, the price at

which such transfer is made shall be adjusted for decommissioning costs associated with such transferred Facility in an amount equal to:

(1) The amount that the acquiring party would have collected for decommissioning costs for the portion of the Facility being transferred had that party been the owner of such Facility being transferred for the period of time that the other party held ownership title to such portion of the Facility; or

(2) Any other amount reasonably determined by the acquiring party to be necessary to cover fully the then current estimate of decommissioning cost associated with the portion of the Facility being transferred during the period of time that the selling party held ownership title to such portion of the Facility being transferred; or

(3) Any amount specified by applicable legislation or regulatory agencies with appropriate jurisdiction which fixes the total exposure of the acquiring party for future liability for nuclear plant decommissioning, such amount to be prorated over the period of time that the selling party held ownership title to such portion of the Facility being transferred.

11.04 APCO's Right to Assign. So long as it shall have obtained all necessary governmental approvals, APCO shall be

free to assign, transfer or convey any or all of its interest in the Facilities and in this Agreement and the other Basic Agreements at any time without the consent of AEC but no such assignment, transfer or conveyance shall diminish AEC's Percentage Ownership Interest or diminish any other rights of AEC or the obligations of APCO hereunder.

ARTICLE XII

Insurance

12.01 General. During the term of this Agreement, APCO will make reasonable efforts to obtain and maintain in force, in the name of the Parties (naming AEC as a named insured), as their interest may appear, insurance covering the Facilities as described in this Article XII.

12.02 Nuclear Property Insurance. APCO shall, during the period of this Agreement, obtain and maintain in force all-risk nuclear property insurance, available from the American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) or Nuclear Mutual Limited (NML) or other equivalent coverage from some other equivalent insurer. The limit and the deductible of such insurance will be the appropriate amounts as determined by APCO and available from the pools or NML or other equivalent insurer and any deductible will be for the account of the Parties as their interest may appear.

12.03 Nuclear Liability Insurance. APCO will carry insurance to cover the legal obligation to pay damages because of bodily injury or property damage caused by the nuclear energy hazard, the policy to be provided by ANI and Mutual Atomic Energy Liability Underwriters (MAELU) or equivalent coverage from some other equivalent insurer. The limits will be in the amounts required by the Atomic Energy Act of 1954, as amended. APCO will continue to carry such insurance against the foregoing risks with coverage and limits as may be required by the Nuclear Regulatory Commission.

12.04 General Liability Insurance. APCO will carry insurance to cover the legal obligations to pay damages because of bodily injury or property damage caused by other than the nuclear energy hazard. The limit and the deductible of such coverage shall be the appropriate amounts as determined by APCO.

12.05 Workmen's Compensation Insurance. APCO qualifies as a self insurer in Alabama but will provide an umbrella policy to cover benefits in excess of its assumed liability for workmen's compensation and employers liability.

12.06 Additional Insurance. In the event APCO at any time or from time to time shall have elected to participate in supplemental insurance programs to cover costs from nuclear risk including decontamination or property damage and other costs

arising therefrom or replacement power costs due to a prolonged outage (including but not limited to the insurance programs then offered by Nuclear Electric Insurance Limited (or any similar successor organization in which APCO is a participant), the costs of such protection shall be in proportion to the ratio of the ratable exposure represented by AEC's Percentage Ownership Interest to the total ratable exposure of the Facilities. In lieu of participating in any such additional insurance coverage which APCO may provide for the Facilities, AEC may secure separate coverage from other sources so long as such separate coverage (a) provides at least as much protection as would have been provided if AEC had participated in APCO's additional insurance coverage, and (b) such separate coverage shall be of equal quality and reliability and shall have been recognized by APCO, in writing, to be satisfactory to it. AEC may, at its sole expense, purchase and take out any additional insurance for its sole use and benefit as AEC may deem appropriate, provided the interests of AEC are not thereby adversely affected. AEC shall advise APCO of the terms of any such additional insurance prior to entering into any contract therefor.

12.07 Waiver of Subrogation - Allocation and Payment of Premiums. All of the insurance policies obtained by either party shall contain waivers of subrogation against the other party, if obtainable from the insurer. The aggregate cost of all insurance, including supplemental coverage as set forth in

Section 12.06 applicable to the Facilities and procured pursuant hereto, shall be considered an operating expense, consistent with the Uniform System of Accounts. The allocation of premiums, taxes on premiums, deductibles, assessments, retrospective premium calls and any other additional insurance shall be in proportion to the ratio of the ratable exposure represented by AEC's Percentage Ownership Interest to the total ratable exposure of the Facilities. In the event that any of the foregoing insurance policies is cancelled by either Party, that Party shall give written notice of such cancellation to the other Party sixty (60) days prior to the effective date of such cancellation.

ARTICLE XIII

Destruction; Condemnation

13.01 Destruction. (a) If the Facilities or any portion thereof should be damaged or destroyed to the extent that the cost of repairs or reconstruction is estimated by APCO to be equal to or less than the aggregate amount of insurance coverage (including any deductible) carried pursuant to Article XII hereof, then, subject to APCO's rights under Sections 3.02 and 8.01, APCO shall, unless otherwise mutually agreed, cause such repairs or reconstruction to be made so that the Facilities or portions thereof shall be restored to substantially the same general condition, character or use as existed prior to such damage or destruction, and APCO and AEC shall share the cost

not reimbursed by insurance in proportion to their respective ownership interests.

(b) If the Facilities or any portion thereof should be damaged or destroyed to the extent that the cost of repairs or reconstruction is estimated by APCO to be more than the aggregate amount of insurance coverage (including any deductible), APCO may cause such repairs or reconstruction to be accomplished, although APCO shall have no obligation to make such repairs or reconstruction if it chooses not to do so. The Parties shall share such costs, if incurred, proportionately to their ownership interests.

(c) Should APCO elect not to repair or reconstruct such Facilities or any portion thereof, AEC shall not have the right to do so but such Facilities or any portion thereof shall be retired.

13.02 Condemnation. During the term of this Agreement, if there shall occur a loss of title to, or ownership of, or use and possession of, the Facilities or any portion thereof, as the result of, or in lieu of, or in anticipation of, the exercise of the right of condemnation or eminent domain pursuant to any law, general or special, the affected Party will promptly give notice thereof to the other Party, generally describing the nature and extent of such proceedings or negotiations. APCO and AEC shall have the right to participate

fully in any such proceedings or negotiations and each Party shall bear its proportionate share of all reasonable costs, fees and expenses incurred in connection with any condemnation proceedings or negotiations. If no Event of Default shall have occurred and be then continuing, all awards and payments received by APCO or AEC on account of any condemnation (less the actual cost, fees and expenses incurred in collection thereof) shall be paid to the Parties in proportion to their respective ownership interests. For purposes of this Agreement, all amounts paid pursuant to any agreement with any condemning authority which has been made in connection with any condemnation proceeding or negotiation shall be deemed to constitute an award on account of such condemnation.

ARTICLE XIV

Force Majeure

14.01 Force Majeure. In addition to all other limitations on liability contained in this Agreement, APCO shall not be liable or responsible for any delay in the performance of, or the ability to perform, any duties or obligations required by the Basic Agreements when such delay in performance or inability to perform results from a Force Majeure occurrence, except that the obligation of either Party to pay money to the other Party in a timely manner is absolute and shall not be subject to the Force Majeure provisions. Force Majeure as used herein

shall mean any event or cause which is not within the reasonable control of APCO including, without limitation, the following: Acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies; orders, or absence of necessary orders and permits of any kind which have been properly applied for, from the Government of the United States or from any state or territory, or any of their departments, agencies or officials, or from any civil or military authority; extraordinary delay in transportation; inability to transport, store, reprocess or dispose of spent nuclear fuel; unforeseen soil conditions; equipment, material, supplies, labor or machinery shortages; failure of suppliers to conform to obligations in a timely fashion; epidemics; landslides; lightning, earthquakes; fire; hurricanes; tornadoes; storms; floods; washouts; drought; war; civil disturbances; explosions; breakage or accident to equipment, machinery, transmission lines, pipes or canals; failure of Nuclear Fuel assemblies; partial or entire failure of utilities; breach of contract by any supplier, contractor, subcontractor, laborer or materialman; sabotage; injunction; blight; famine; blockade; or quarantine.

14.02 Remedy. If APCO suffers an occurrence of Force Majeure, it shall remedy with all reasonable dispatch the cause or causes preventing APCO from carrying out its agreement; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the

discretion of APCO, and it shall not be required to make settlement of strikes, lockouts or other industrial disturbances by acceding to the demands of the opposing party or parties when such course is unfavorable in the judgment of APCO.

ARTICLE XV

Default

15.01 Events of Default. Each of the following shall be "Events of Default" under the Basic Agreements:

(a) The failure by AEC to make any payment then due as required by any of the Basic Agreements within ten (10) days of the date when such payment became due.

(b) Failure by AEC to perform any other obligation to APCO, other than obligations for the payment of money, provided that AEC shall have been given not less than sixty (60) days' notice by APCO of such failure and AEC shall have failed to correct such breach of its obligation or shall have failed to use its reasonable best efforts to correct such breach of its obligations. In the event, notwithstanding such efforts, AEC is unable to correct such breach of its obligations within one hundred twenty (120) days, an Event of Default shall be considered to have occurred.

(c)(i) The insolvency or bankruptcy of AEC or its 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, other than AEC's mortgagee; or

(ii) The application for, or consent (by admission of material allegations or a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for AEC or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceeding seeking such appointment against it without such authorization, consent or application, which proceedings remain undismissed or unstayed for a period of sixty (60) days; or

(iii) The authorization or filing by AEC of a voluntary petition in bankruptcy or application for, or consent (by omission 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 AEC without its authorization, application or consent, which proceedings remain undismissed or unstayed for sixty (60) days, or which result in adjudication of bankruptcy or insolvency within such time.

(d) The willful failure by AEC to pay any amount when due under any obligation to a third party (other than an obligation for borrowed money) incurred in connection with AEC's performance under the Basic Agreements, and such failure shall continue for thirty (30) days thereafter (or if such payment is being contested in good faith, for thirty (30) days after the resolution of such contest).

(e) The failure by AEC to pay any amount when due under any obligation to a third party for borrowed money incurred in connection with the financing of AEC's performance under the Basic Agreements, and such failure shall permit the third party to whom such amount is owed to accelerate such obligation or otherwise to exercise legal or equitable remedies against AEC.

(f) If any representation or warranty made by AEC in the Basic Agreements or any other document or instrument between AEC and APCO securing the Basic Agreements shall not be true and correct in all material respects as of the date when made.

15.02 Remedies for Late Payments. (a) Failure of AEC to make any payment on the date required under the Basic Agreements shall obligate AEC then to pay APCO (i) the unpaid amount, (ii) interest on the unpaid amount at the Special Interest Rate from the date such payment was due until the amount is paid, (iii) the expenses incurred by APCO in

collecting the unpaid amount including but not limited to the expenses of counsel, and (iv) any other expenses incurred by APCO because of the delay such as cost of replacement power because of the inability to operate the Facilities because of such late payment.

(b) Should AEC's failure to make payment not be cured by payments required under Section 15.02(a) above within ten (10) days from the date such payment was due, in addition to incurring penalties under Section 15.02(a), AEC's rights to the available capacity from its Percentage Ownership Interest in the Facilities shall be subject to the option specified in Section 15.04.

(c) If AEC shall fail to make any payments due to APCO after Closing under the Basic Agreements and if such failure shall have continued for a period of forty-five (45) days (including any applicable grace period) without all sums then due (plus interest and penalties due within such forty-five (45) day period) having been paid to APCO, there shall then exist a Class 1 Event of Default. If at the time of or during the continuation of any Class 1 Event of Default, APCO, either by itself or in conjunction with others, shall have the following rights which may not be defeated by any offer or tender made in an attempt thereafter to cure the default.

(i) APCO shall have the right (but shall not be required) to purchase, free and clear of all liens and encumbrances, the entire AEC Percentage Ownership Interest in the Facilities or any percentage of any of the Facilities then owned by AEC. The purchase price for such interest shall be an amount equal to the aggregate of the purchase price paid by AEC applicable to the Facilities to be acquired from AEC, including, with respect to New Investments in the Facilities, appropriate allowances for Actual Cost of Funds During Construction (which Actual Cost shall have been determined using rates no higher than the rates used by APCO for the same period) less the sum of (i) an amount equal to the revenues required (based on the then allowed rate of return for Alabama jurisdictional customers) to support the amount in default (such amount to be stated without taking any depreciation into account) for the entire period of the default, less an adjustment for any interest theretofore paid on account of the amount in default, (ii) taxes paid by AEC and included in the Initial Purchase Price or otherwise paid with respect to the Facilities and additional taxes incurred as a result of the repurchase, (iii) depreciation and amortization accrued on the books of account of AEC, comprised of depreciation reflected in the determination of the Purchase Price (but depreciation reflected in the determination of the Purchase Price shall not be deleted a second time in the application of this Subsection (iii)) and depreciation subsequent thereto determined in accordance with the same methodology used by APCO, excluding

amortization applicable to taxes reflected in (ii) above, (iv) any amount, including taxes not included in (ii) above, owed by AEC under the Basic Agreements to APCO, (v) any costs or expenses incurred by APCO, excluding the cost of any debt incurred to finance such acquisition, in connection with such purchase and any indebtedness secured by Liens with respect to the interest in the Facilities being acquired and any other obligation assumed or paid by APCO in order to obtain good title, (vi) any retirements applicable to AEC's Percentage Ownership Interest in the Facilities, and (vii) the Decommissioning Adjustment to Transfer Price calculated in accordance with Section 11.03 hereof.

(ii) Upon exercise by APCO of its right to purchase AEC's Percentage Ownership Interest in the Facilities pursuant to Section 15.02(c), (i) APCO shall give notice of such election in writing to the trustee or trustees (as named by AEC pursuant to Section 9.04(b) hereof) of AEC's bonds or of other evidences of indebtedness, and (ii) APCO (and where applicable, any other purchasers) shall then be deemed to have purchased AEC's Percentage Ownership Interest in the Facilities, free and clear of all liens and encumbrances, and shall be entitled to all of AEC's rights in the Facilities. Any purchase of AEC's Percentage Ownership Interest in the Facilities pursuant to this Section 15.02(c) shall be subject to the obtaining of applicable governmental and regulatory approvals (other than REA) and AEC shall take all necessary

actions and shall execute, and file where appropriate, all legal documents that shall reasonably be requested by APCO to complete any transaction contemplated by this Section 15.02(c).

(iii) A closing to consummate the purchase by APCO pursuant to this Section 15.02(c) shall be held at a time and place to be determined by APCO.

(d) Should AEC's failure to make payments not be cured by payments under Section 15.02(a), within ten (10) days APCO may exercise its rights under Section 16.01.

15.03 Acceleration. If an Event of Default under Section 15.01 shall have occurred, the entire unpaid amounts owing to APCO, together with any accrued and unpaid interest thereon, shall become immediately due and payable without the necessity of any action by APCO.

15.04 Impact of Default on Entitlement to Capacity until Cure. If any Event of Default has occurred, in addition to other remedies and the Special Remedy provided in Section 16.01, AEC shall not be entitled to the available capacity from its Percentage Ownership Interest in the Facilities. During any period this remedy is in effect, AEC shall continue to be responsible to APCO for any cost of AEC's Percentage Ownership Interest due to be paid to APCO, including operating

costs and cost of New Investments under the Operating Agreement and cost of Nuclear Fuel under the Nuclear Fuel Agreement. At APCO's option, (i) the continuing costs may be foregone by APCO's exercise of its Special Remedy set forth in Section 16.01 with respect to such continuing costs, or (ii) APCO may utilize the energy associated with the available capacity from AEC's Percentage Ownership Interest and credit AEC with the amount of energy so utilized times APCO's average cost of energy from the Farley Plant during the six (6) months preceding the month in which the default occurred; however, in the event unusual circumstances have caused such cost not to represent normal operation, such average cost shall be adjusted downward to reflect energy costs expected during normal operation.

15.05 Remedies Not Exclusive. If an Event of Default under Section 15.01 shall have occurred, the rights and remedies provided in this Article XV shall not be exclusive but shall be in addition to any other remedy available under the Basic Agreements and, to the extent permitted by law, be cumulative and in addition to all other rights and remedies existing at law, in equity or otherwise, including the right to enforce performance or to recover damages by appropriate proceedings, judicial, administrative or otherwise. In addition, APCO shall have the right to offset any and all amounts owed while any such Event of Default is continuing. No delay or omission to exercise any rights or remedy shall impair such right or

remedy or constitute a waiver of the default or an acquiescence therein. Every right and remedy given by the Basic Agreements, by law or in equity or otherwise, may be exercised from time to time, and as often as may be deemed expedient, by APCO.

ARTICLE XVI

Special Remedies

16.01 Special Remedy. If there exists any default by AEC pursuant to Section 15.01(a), or circumstances described in Section 15.04, then, upon notice to AEC by APCO, at APCO's option, AEC's Percentage Ownership Interest in the Facilities shall automatically be adjusted in accordance with the following formula, applied separately to each of the Facilities, to wit, Farley Unit 1, Farley Unit 2, Common Facilities, and the Operating Inventory:

$$(F)AOI = (F)OI \times \frac{(B-A)}{B}$$

Where (F)AOI equals the adjusted AEC's Percentage Ownership Interest in any of the Facilities, immediately subsequent to the cumulative adjustment effected by this Section 16.01;

(F)OI equals AEC's Percentage Ownership Interest in any of the Facilities at Closing;

A equals the cumulative aggregate amount of all payments then owed (or previously owed to APCO and which were previously a component of A under this

formula) to APCO under Article III or Section 15.03 hereof, including interest at the Interest Rate due thereon for the entire period of the default less taxes owed to APCO with respect to amounts then owed pursuant to Article III or operating or maintenance expenses under any other agreement between the parties; and

B equals AEC's initial purchase price paid pursuant to Section 3.01 plus the aggregate amount of all payments previously made and the amounts then owed pursuant to the Operating Agreement for New Investment including appropriate allowances for Actual Cost of Funds During Construction (determined in accordance with the provisions of Section 15.02(c)(i) less the sum of the following:

(i) amounts AEC may have paid as penalties, if any have been previously included in this item B; (ii) depreciation and amortization accrued to the books of account of AEC applicable to the Facilities, comprised of depreciation reflected in the determination of the Initial Purchase Price (but depreciation reflected in the determination of the Initial Purchase Price shall not be deleted a second time in the application of this Subsection (ii) and depreciation subsequent thereto determined in accordance with the same methodology used by

APCO, excluding depreciation and amortization applicable to all taxes reflected in (ii) above, and (iii) any retirements applicable to AEC's Percentage Ownership Interest in the Facilities.

Thereafter, each successive Event of Default covered under this Section in any month shall similarly further decrease AEC's Percentage Ownership Interest in the Facilities, unless and until APCO shall have exercised its right to purchase AEC's Percentage Ownership Interest pursuant to Section 15.02.

16.02 Rights and Obligations upon Repurchase or Transfer of Title. (a) In the event of any transfer of or purchase of or adjustment of ownership interest pursuant to this Agreement, AEC shall execute and deliver further documents of title (conforming to the document requirements of Section 2.01) conveying to APCO the interest in the Facilities required by this Agreement, free and clear of all liens and encumbrances, but subject to payment or assumption as provided in the last sentence of Section 9.03.

(b) In the event of any adjustment of ownership interest pursuant to this Article XVI, (i) any loss or expenses incurred by APCO in connection with such acquisition shall be due to APCO from AEC, (ii) APCO shall give notice of such election in writing to the trustee or trustees of AEC's bonds or other evidences of indebtedness, and (iii) a closing to

consummate the acquisition pursuant to this Article shall be promptly held at a time and place determined by APCO.

(c) Any acquisition pursuant to this Article shall be subject to the obtaining of applicable governmental and regulatory approvals and AEC shall take all necessary actions and shall execute, and file where appropriate, all legal documents that shall reasonably be requested by APCO to complete any transaction contemplated by this Article XVI.

ARTICLE XVII

Term of Agreement

17.01 Termination. This Agreement shall terminate at the earlier of (a) when, at the sole judgment of APCO, all the Facilities shall have been retired and decommissioned, when all payments required have been made, when all liability for disposal of waste has terminated, when the plant site has been returned to a condition acceptable to APCO (or when the Parties have entered into a final, definitive, further agreement providing for the permanent care of the Facilities, as permitted by such Section 3.02), and when APCO's option to purchase AEC's Percentage Ownership Interest pursuant to Section 3.02 hereof shall have expired, (b) December 31, 2100, or (c) December 31, 1984 if the Closing shall not have been consummated.

17.02 Measuring Lives. If and to the extent that any of the rights and privileges granted under the provisions of this Agreement would, in the absence of the limitation imposed by this Section, be invalid or unenforceable as being in violation of the rule against perpetuity or any other rule of law relating to the vesting of interests in property or the suspension of the power of alienation of property, then it is agreed that notwithstanding any other provision of this Agreement, said options, rights and privileges, subject to the respective conditions governing the exercise of such options, rights and privileges, shall be exercisable only during (a) a period which shall end twenty-one (21) years after the death of the last survivor of the officers and members of the Board of Directors of APCO named in Exhibit ___ hereto, together with all such persons' children and grandchildren who are living on the date of the execution of this Agreement, or (b) the specific applicable period of time expressed in this Agreement, whichever is shorter.

ARTICLE XVIII

Accounting Matters

18.01 General Accounting Matters. Determinations by APCO on all accounting matters related to the transactions contemplated by the Basic Agreements will be in accordance with Generally Accepted Accounting Principles and FERC's Uniform

System of Accounts, utilizing the accrual method of accounting, unless otherwise specifically provided in the Basic Agreements or mutually agreed by the Parties or as prescribed by other regulatory agencies having jurisdiction, as in effect from time to time. The accounting system and procedures designed to implement and operate this Agreement and the other Basic Agreements will be developed with APCO's resources and/or through a consultant. All costs incurred for the design, development and initial implementation of this system are to be borne by AEC.

18.02 Right to Inspect Records, Etc. During normal business hours and subject to conditions consistent with the conduct by APCO of its regular business affairs and responsibilities, APCO will provide AEC, the Authorized AEC Representative(s) or any auditor utilized by AEC reasonably acceptable to APCO or any nationally recognized accounting firm retained by AEC, access to APCO's books, records, and other documents directly related to the performance of APCO's obligations under the Basic Agreements (but excluding internal memoranda, records and documents relating to such matters and minutes of meetings of the Board of Directors and committees thereof) and, upon request, copies thereof, which set forth (a) costs applicable to the construction, operation, maintenance and retirement of the Facilities to the extent necessary to enable AEC to verify the costs for which AEC is billed pursuant to the provisions

of this Agreement, (b) matters relating to the design, construction and operation and retirement of the Facilities in proceedings before any regulatory body or governmental agency having jurisdiction. AEC will bear the cost of any copying, review or audit of such books and records.

During normal business hours and subject to conditions consistent with the conduct by AEC of its regular business affairs and responsibilities, AEC will provide APCO, the Authorized APCO Representative(s), or any auditor utilized by APCO reasonably acceptable to AEC or any nationally recognized accounting firm retained by APCO, access to AEC's books, records, and other documents, and, upon request, copies thereof, which relate to the Basic Agreements (but excluding internal memoranda, records and documents relating to such matters and minutes of meetings of the Board of Directors and committees thereof). APCO will bear the cost of any copying, review or audit of such books and records. Notwithstanding the foregoing, however, neither Party shall be required to make available to the other Party any reports and information relating to personnel practices, staffing or labor relations (including internal memoranda, records and documents relating to such matters as minutes of meetings of the Board of Directors and committees thereof).

18.03 Other Audits. AEC recognizes that APCO is subject to audits by various Federal and State regulatory agencies.

Should any adjustment be required by such audit which affects the Purchase Price or New Investment under this Agreement, the Parties agree to share such adjustment in proportion to their respective ownership interests. AEC also agrees to pay its pro rata share of legal and other expenses incurred by APCO in appealing any adjustment resulting from any such audit, which affects the Purchase Price or New Investment under this Agreement. Any decision to appeal shall be subject to the provisions of Article VIII hereof.

ARTICLE XIX

Consultations and Mutual Cooperation;

Authorized Representatives

19.01 Consultations and Mutual Cooperation. At least annually APCO will meet with representatives of AEC at 600 North 18th Street, Birmingham, Alabama, or such other place as the Parties may agree, to report on the operation of the Facilities.

19.02 Authorized AEC Representatives. At the Closing, AEC shall designate, in writing, not more than two (2) Authorized AEC Representatives to act on its behalf with respect to all matters contemplated by this Agreement. The person or persons so designated by AEC as Authorized AEC Representatives may be changed, in the sole discretion of AEC and from time to time, by at least ten (10) days' prior written notice to APCO.

19.03 Authorized APCO Representatives. At the Closing APCO shall designate, in writing, not more than four (4) Authorized APCO Representatives to act on its behalf with respect to all matters contemplated by this Agreement. Any of the Authorized APCO Representatives may be changed, in APCO's sole discretion and from time to time, by at least ten (10) days' prior written notice to AEC.

ARTICLE XX

Miscellaneous

20.01 Non-Exclusive Sale. APCO shall have the right to sell to others joint interests in any or all of its remaining interest in the Facilities upon such terms and conditions as APCO may choose, but no such sale shall diminish AEC's Percentage Ownership Interest in the Facilities or diminish any other rights and interests of AEC hereunder.

20.02 No Arbitration; Resolution of Disputes. No Party shall have the right to arbitrate any dispute that might arise with respect to any of the Basic Agreements. Any disagreement between the Parties as to their rights or obligations under this Agreement shall first be addressed by consultation between the Authorized APCO Representatives and the Authorized AEC Representatives. In the event such representatives are unable to satisfactorily resolve their disagreement, they shall refer to the matter to their respective management. No dispute as to

the payment of an invoice rendered by either Party pursuant to any of the Basic Agreements shall permit the other Party to delay payment of the disputed invoice, in full, on its payment date. If the invoiced Party shall have paid any such disputed invoice, in full, on or before its payment date and if the Authorized APCO Representatives and the Authorized AEC Representatives, or a court of competent jurisdiction, should later determine that a disputed invoice was for an amount in excess of the correct amount due, then the invoicing Party shall be obligated to refund the difference to the invoiced Party within ten (10) days of such determination with interest at the Regular Interest Rate, if any, upon such amount.

20.03 Notices. Any notice, request, consent or other communication permitted or required by this Agreement (other than payments) shall be in writing and be deemed given when delivered by hand or when deposited in the United States mail, first class, postage prepaid, and if to APCO, addressed to:

Alabama Power Company
P. O. Box 2641
Birmingham, Alabama 35291

Attention: President

With copies to: The Authorized APCO
Representatives designed by APCO
pursuant to Section 19.03 hereof

and if to AEC, addressed to:

Alabama Electric Cooperative, Inc.
P. O. Box 550
Andalusia, Alabama 36420

Attention: General Manager

With copies to: The Authorized AEC
Representatives designated by AEC
pursuant to Section 19.02 hereof

unless a different officer or address shall have been designated by either Party by notice in writing to the other Party.

20.04 Holidays, Business Days. Any obligation to perform under this Agreement, including payment obligations, which shall become due on a non-business day shall become due upon the next business day. The term "business day" shall mean any day other than a day on which banking institutions in the City of Birmingham, Alabama are authorized by law to close.

20.05 Entire Agreement. This Agreement, together with the other Basic Agreements, constitutes the entire understanding between the Parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein and therein. No Party hereto has relied or will rely upon any oral or other written representation or oral or other written information made or given to such Party by any representative of the other Party or anyone on its behalf.

20.06 Amendments. This Agreement may not be amended, modified, or terminated, nor may any obligation hereunder be waived, orally, and no such amendment, modification, termination or waiver shall be effective for any purpose unless it is

in writing, and signed by both Parties and all necessary regulatory approvals, including the Administrator of REA, have been obtained.

20.07 Relationship of the Parties. The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective, and nothing herein contained shall ever be construed to create an association, trust, joint venture or partnership or impose a trust, fiduciary or partnership duty, obligation, or liability on or with regard to the Parties, although the Parties acknowledge that the ownership and operation of the Facilities may constitute a partnership for tax purposes. The Parties shall be individually responsible for their own obligations as provided herein. Neither Party shall have the right or power to bind the other Party except as expressly provided in this Agreement.

20.08 Tax Election. APCO and AEC hereby agree that they will both elect to exclude the arrangement created by this Agreement from the application of Subchapter K of the Internal Revenue Code of 1954, as amended, and execute all documents required by either Party to effect that result.

20.09 Governing Law. This Agreement is made under and shall be construed under and governed by the laws of the State of Alabama.

20.10 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 thereof, or the right of such Party thereafter to enforce each and every such provision.

20.11 Captions. The descriptive captions 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.

20.12 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.

20.13 Singular and Plural; Gender. Throughout this Agreement, whenever any word in the singular number is used, it should 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. The use of the masculine shall include the feminine.

20.14 REA Required Clauses - Incremental Cost of Compliance; Remedies for Non-compliance. (A) AEC has represented to APCO

that REA will not loan, or guarantee the loan of, money to AEC for its investment in the Farley Nuclear Plant unless APCO agrees to the inclusion of the provisions set forth as Items (C) (1) through (7) of this Section 20.14. APCO has agreed to the inclusion of these items with the express understanding and agreement (and acknowledgement by REA) that their inclusion is subject to the conditions and limitations set forth in Section 20.14(B) below.

(B) (1) In the event APCO experiences any increase in its costs because of any of the provisions set forth in Section 20.14(C), the entire burden of such increase in cost shall be borne by AEC and AEC shall pay such increase in cost upon receipt of invoice as provided in Article V of the Operating Agreement.

(2) In no event shall any breach by APCO of any of the provisions of Section 20.14(C) (1) through (7) give AEC (or any party claiming rights hereunder through AEC) the right or opportunity to terminate the Basic Agreements or any of them, or diminish the obligations of AEC (or any party claiming rights through AEC) under the Basic Agreements.

(C) (1) Buy American. The parties covenant that in the performance of this Agreement (i) at least AEC's Percentage Ownership Interest in the total cost of the Farley Nuclear Plant, including the total of all of the unmanufactured

articles, materials and supplies used or to be used in the construction of or otherwise made a part of the Farley Nuclear Plant shall have been mined or produced in the United States, and (ii) at least AEC's Percentage Ownership Interest in the total cost of the Farley Nuclear Plant, including the total cost of all of the manufactured articles, materials, and supplies used or to be used in the construction of or otherwise made a part of the Farley Nuclear Plant shall have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States. If any article, material, or supplies are partially mined, produced, or manufactured in the United States (said part being hereinafter called the "American Made Portion") and partially mined, produced, or manufactured somewhere other than in the United States, then only the cost of the American Made Portion shall be used in determining whether the requirements of the preceding sentence have been satisfied. At the Closing and from time to time thereafter when requested by AEC or the REA Administrator, the parties shall supply the REA Administrator or the party so requesting with information and documentation demonstrating that the Farley Nuclear Plant was constructed in accordance with the requirements of this Section, provided AEC shall reimburse APCO all costs incurred by APCO in providing such information and documentation, including reimbursement, at usual hourly rates, the cost of the time of personnel engaged in any such supply of information and documentation.

AEC shall further reimburse APCO for any cost which APCO incurs in complying with this provision in lieu of procuring goods or services outside the United States.

(2) Historic Places. The parties shall not, without approval in writing by the REA Administrator, use any portion of the funds made available to APCO by AEC pursuant to the terms of this Agreement to construct any facilities which will involve any district, site, building, structure or object which is included in the National Register of Historic Places, maintained by the Secretary of the Interior pursuant to the Historic Sites Act of 1935 and the National Historic Preservation Act.

(3) Flood Insurance Act. Notwithstanding anything contained in this Agreement, neither party shall be under any obligation to advance any funds to the other party to finance the construction or acquisition of any building in any area heretofore identified by the Secretary of Housing and Urban Development, pursuant to the Flood Disaster Protection Act of 1973 (the "Flood Insurance Act") or any rules, regulations or orders issued to implement the Flood Insurance Act ("Rules"), as an area having special flood hazards, or to finance any facilities or materials to be located in any such building, or in any building owned or occupied by APCO or AEC located in such flood hazard area unless and until there have been compliance with all other conditions of this Agreement which are

precedent to such advances, and the REA Administrator has determined that (i) the community in which such area is located is then participating in the national flood insurance program, as required by the Flood Insurance Act and any Rules, and (ii) APCO and AEC have obtained flood insurance coverage with respect to such building and contents as may then be required pursuant to the Flood Insurance Act and any Rules, AEC being responsible for the entire cost of any such insurance. In the event, because of this provision, AEC fails to pay for any portion of the Facilities, AEC shall not be entitled to its Percentage Ownership Interest in any output of the Farley Nuclear Plant.

(4) Public Officials Not to Benefit. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise herefrom other than the receiving of electric service on the same terms accorded other consumers and other than benefits, if any such person is an APCO or The Southern Company shareholder, that may accrue to such shareholders generally.

(5) Kickbacks. In the acquisition, construction and completion of Facilities pursuant to this Agreement, APCO and AEC shall comply with all applicable statutes, rules and regulations pertaining to the so-called "Kickback" Statute (43 Stat. 948, 18 U.S.C. Sec. 874 and 40 U.S.C. Sec. 276C).

(6) Equal Opportunity Clause. During the term of this Agreement, the parties agree as follows:

(i) The parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The parties agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

(ii) The parties will, in all solicitations or advertisements for employees placed by or on behalf of either party, state that all qualified applicants will receive consideration for employment without regard to color, religion, sex, age or national origin.

(iii) The parties will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, a

notice to be provided advising that said labor union or workers' representatives of the parties' commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(iv) The parties will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(v) The parties will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(vi) In the event of either party's noncompliance with this Equal Opportunity Clause of this Agreement or with any of the said rules, regulations or orders, the party may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, such being the sole and exclusive remedy applicable

under this Agreement for noncompliance herewith, it being recognized that the parties have executed other Agreements under which broader remedies for such noncompliance has been recognized.

(vii) The parties agree that, unless exempted by the rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, all subcontracts and purchase orders are subject to Executive Order 11246 and such provisions will be binding upon each subcontractor and vendor. The parties shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the party becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, that party may request the United States to enter into such litigation to protect the interests of the United States.

(7) Nonsegregated Facilities. The parties certify that they do not maintain or provide for their employees any segregated facilities at any of its establishments, and that it does not permit their employees to perform services at any location, under their control, where segregated facilities are maintained. The parties certify further that they will not

maintain or provide for their employees any segregated facilities at any of their establishments, and that they will not permit their employees to perform their services at any location, under their control, where segregated facilities are maintained. The parties agree that a breach of this certification is a violation of the Equal Opportunity Clause in this Agreement and that the sole and exclusive remedy for breach of this certification is the sole and exclusive remedy set forth in the Equal Opportunity Clause of this Agreement. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment area, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The parties agree that (except where they have obtained identical certifications from proposed subcontractors for specific time periods) they will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that they will retain such certifications in their files.

IN WITNESS WHEREOF, the parties have hereto caused this Agreement to be signed and sealed as of _____, 1984 by their duly authorized representatives.

ALABAMA POWER COMPANY

By _____

ATTEST:

Corporate Secretary

ALABAMA ELECTRIC COOPERATIVE,
INC.

By _____

ATTEST:

STATE OF ALABAMA:
JEFFERSON COUNTY to-wit:

The foregoing instrument was acknowledged before before me this ____ day of _____, 1984 by _____ and _____, President and Corporate Secretary, respectively, of Alabama Power Company, an Alabama corporation, on behalf of the Corporation.

My commission expires: _____

Notary Public

STATE OF ALABAMA:
COVINGTON COUNTY to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 1984 by _____, of Alabama Electric Cooperative, Inc. an Alabama corporation, on behalf of the Corporation.

My commission expires: _____

EXHIBIT A

COMMON FACILITIES
JOSEPH M. FARLEY NUCLEAR PLANT

[Description to be developed of all facilities at the
Farley Plant considered Common Facilities as of the date
of the Purchase and Ownership Agreement]

EXHIBIT B

FARLEY UNIT 1
JOSEPH M. FARLEY NUCLEAR PLANT

[Description to be developed of the facilities included
within the Farley Plant which constitute Farley Unit 1]

EXHIBIT C

FARLEY UNIT 2
JOSEPH M. FARLEY NUCLEAR PLANT

[Description to be developed of the facilities included
within the Farley Plant which constitute Farley Unit 2]

EXHIBIT D

MEMBERS OF ALABAMA ELECTRIC COOPERATIVE, INC.
AS OF _____, 1984

City of Andalusia
Baldwin County Electric Membership Corporation
City of Brundidge
Central Alabama Electric Cooperative
Choctawhatchee Electric Cooperative
Clarke-Washington Electric Membership Corporation
City of Elba
Escambia River Electric Cooperative
Gulf Coast Electric Cooperative
Miccolas Cotton Mills
City of Opp
Opp Cotton Mills
Pea River Electric Cooperative
Pioneer Electric Cooperative
South Alabama Electric Cooperative
Southern Pine Electric Cooperative
Tallapoosa River Electric Cooperative
West Florida Electric Cooperative
Wiregrass Electric Cooperative

EXHIBIT E

STATUTORY WARRANTY DEED

[Statutory Warranty Deed to be developed consistent with Section 2.02(a) conveying to AEC an undivided ownership interest in real property to be conveyed under the Agreement]

EXHIBIT F

ASSIGNMENT OF CONTRACTS, LICENSES
AND PERMITS

[Document to be developed assigning to AEC, to the extent possible, an undivided ownership interest in APCO's rights and obligations under those certain contracts, licenses and permits listed herein for the purchase, repair, construction, ownership and operation of the Facilities]

EXHIBIT G

BILL OF SALE

[Bill of Sale to be prepared conveying undivided ownership interest in all property listed thereon]

EXHIBIT H

SECOND MORTGAGE AND DEED OF TRUST

[Document to be prepared evidencing second mortgage lien on property of AEC as security for obligations owed by AEC to APCO under the Basic Agreements]

EXHIBIT I

PURCHASE PRICE FOR AEC'S
PERCENTAGE OWNERSHIP INTEREST

[Document to be prepared stating purchase price and showing allocation among the various elements constituting the price]

EXHIBIT J

GUARANTY AGREEMENT

[Guaranty Agreement, binding REA, to be prepared to guarantee AEC's performance of the Basic Agreements]

EXHIBIT K

SPECIAL GUARANTY AGREEMENT

FOR AND IN CONSIDERATION of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the undersigned, for themselves, their successors and assigns (hereinafter "Guarantors"), being members of ALABAMA ELECTRIC COOPERATIVE, INC., a corporation organized under the laws of the State of Alabama (hereinafter "AEC"), hereby each guarantees to ALABAMA POWER COMPANY, its successors and assigns (hereinafter "APCO") full payment and/or performance of all costs, liabilities and obligations of AEC to APCO, including payment of accrued interest if any, arising out of or resulting from that certain Purchase and Ownership Agreement between APCO and AEC dated _____, 1984, that certain Nuclear Fuel Agreement between AEC and APCO dated _____, 1984, and that certain Operating Agreement between AEC and APCO dated _____, 1984 (hereinafter collectively referred to as "Basic Agreements"), to which true copies of this Special Guaranty Agreement are affixed, or arising out of or resulting from a violation by AEC of any of the covenants contained in the Statutory Warranty Deed and Bill of Sale to be delivered by APCO to AEC pursuant to the Basic Agreements ("guaranteed items"). Notwithstanding anything to the contrary herein contained, the liability of each of the undersigned is limited to

that percentage of the entire liability hereunder which is set forth below, as follows:

City of Andalusia	_____ 8
Baldwin County Electric Membership Corporation	_____ 8
City of Brundidge	_____ 8
Central Alabama Electric Cooperative	_____ 8
Choctawhatchee Electric Cooperative	_____ 8
Clarke-Washington Electric Membership Corporation	_____ 8
City of Elba	_____ 8
Escambia River Electric Cooperative	_____ 8
Gulf Coast Electric Cooperative	_____ 8
Micolas Cotton Mills	_____ 8
City of Opp	_____ 8
Opp Cotton Mills	_____ 8
Pea River Electric Cooperative	_____ 8
Pioneer Electric Cooperative	_____ 8
South Alabama Electric Cooperative	_____ 8
Southern Pine Electric Cooperative	_____ 8
Tallapoosa River Electric Cooperative	_____ 8
West Florida Electric Cooperative	_____ 8
Wiregrass Electric Cooperative	_____ 8

1. This guaranty is unconditional, provided only that each Guarantor may assert any defense that would be available to AEC under the Basic Agreements and that has not been resolved against AEC pursuant to the final decision of a court of competent jurisdiction.

2. This guaranty shall be deemed continuing and irrevocable, notwithstanding any subsequent withdrawal of any or all of the Guarantors as members of AEC, provided that an express release given by APCO to AEC shall also constitute a release of each of the Guarantors hereunder. Guarantors hereby waive demand of payment, presentment, protest and notice of protest on any and all of the guaranteed items and consent to alteration, amendment, or modification of any obligations under the Basic Agreements without necessity for notice to Guarantors or agreement by Guarantors. Payments by the Guarantors to APCO pursuant to this guaranty shall be made at the principal place of business of APCO, in lawful money of the United States.

3. The obligations of each Guarantor may be enforced without regard to the enforcement of the obligations of any other Guarantor, and without regard to the validity or invalidity of any obligations of another Guarantor. Any amounts received by APCO from whatsoever source on account of the AEC's indebtedness or liabilities, and in such order of application, as APCO may from time to time elect; and, notwithstanding any payments made by or for the account of the undersigned pursuant to this guaranty, the undersigned shall not be subrogated to any rights of APCO until such time as this guaranty shall have been discontinued as to all of the undersigned and APCO shall have received payment of the full amount of all indebtedness or liabilities and of all obligations of all of the undersigned hereunder.

4. Guarantors hereby consent to APCO from time to time extending the time of payment or performance in whole or in part of any and all of the aforesaid items for such time or times as APCO may determine and hereby waive notice to or obtaining the consent of the Guarantors. Such extension of extensions may be longer than the time for payment or performance of the original obligation. Guarantors further agree that this guaranty shall apply with equal force and effect to any renewal or renewals of any of the aforesaid items. Guarantors further consent to the subsequent sale by APCO of participation interests in the Farley Plant to persons other than AEC, or to APCO otherwise dealing with the Farley Plant, and agree that such shall not impair this guaranty, and hereby waive notice thereof to or obtaining the consent therefor of the Guarantors. Guarantors hereby consent to the partial or total release of other persons (except AEC) primarily or secondarily liable, and to the release of all or part of any security that may be held by APCO all without notice to Guarantors. APCO shall not be obligated to acquire any security or substitute security because of the release of other security. If at any time all or any part of any payment theretofore applied by APCO to any indebtedness or liability of AEC is or must be rescinded or returned by APCO for any reason whatsoever (including without limitation the insolvency, bankruptcy or reorganization of AEC) such indebtedness or liability shall for the purpose of this guaranty, to the extent that such payment is or must be rescinded or returned,

be deemed to have continued in existence notwithstanding such application by APCO, and this guaranty shall continue to be effective or be reinstated, as the case may be, as to such indebtedness or liability as though such application by APCO had not been made.

5. Notice by APCO of the acceptance of this guaranty is hereby waived. No act or omission of any kind (except express written release of the AEC) by APCO shall affect or impair this guaranty and APCO shall have no duties to the Guarantors. The Guarantors hereby agree that their obligations hereunder shall be absolute and primary and shall be complete and binding as to each Guarantor upon this guaranty being executed by it and subject to no conditions precedent or otherwise. This guaranty contains the full agreement of the Guarantors and is not subject to any oral conditions.

6. No modification or waiver hereof shall be binding on APCO unless in writing signed by an officer of APCO. This guaranty shall be construed in accordance with and governed by the laws of the State of Alabama. Wherever possible each provision of this guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this guaranty.

EXHIBIT L

RELEASE AND COVENANT NOT TO SUE

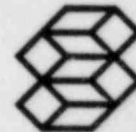
[Document to be prepared for execution by AEC and each AEC Member, together with certified resolutions of the Board of Directors of each entity authorizing execution]

EXHIBIT M

OPINION OF COUNSEL FOR AEC

EXHIBIT N

OPINION OF COUNSEL FOR AEC



Southern Engineering
Company of Georgia
1800 Peachtree St. NW
Atlanta, GA 30367-8301
(404) 352-9200

Southern Engineering

May 2, 1984

Mr. J. M. Elliott
Director of Corporate Financial,
Accounting & Regulatory Services
Alabama Power Company
600 North 18th Street
Post Office Box 2641
Birmingham, Alabama 35291

Dear Mr. Elliott:

On behalf of AEC, we would like to update the information regarding the Farley nuclear plant provided in your letters of May 9, 1983 and May 16, 1983. Specifically, we request the Alabama Power Company 1983 Form 1, the Alabama Power Company 1983 Annual Report, the Alabama Power Company Financial and Statistical Report 1973-1983, gross and net investment along with accumulated depreciation of Farley nuclear plant as of December 31, 1983 (same format as in your May 9, 1983 letter preferred), estimated construction expenditures at Farley nuclear plant for the years 1984 through 1988, and the latest fuel cost estimates in ¢/mmBTU for the years 1984 through 2000 for each unit. The fuel estimates previously provided have included a component for spent fuel permanent disposal, but have not included the interest cost on the leased fuel. We will assume the same applies to the new estimates unless you tell us differently.

Since we have been asked to coordinate requests and exchanges of information through Mr. Vogtle, I am sending a copy of this letter to him.

Sincerely,

Jeff Parish, P.E.
Senior Project Manager

JP/lw

cc: Mr. Jesse S. Vogtle
Mr. Charles R. Lowman
Mr. D. Biard MacGuineas
Mr. O. F. Rogers

BALCH BINGHAM BAKER WARD SMITH BOWMAN & THAGARD

ATTORNEYS AND COUNSELORS

POST OFFICE BOX 306

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(205) 251-8000

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FINANCIAL CENTER OFFICE
SUITE 700
505 NORTH 20TH STREET
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MONTGOMERY OFFICE
THE WINTER BUILDING
2 DEXTER AVENUE
COURT SQUARE
POST OFFICE BOX 78
MONTGOMERY, ALABAMA 36101
(205) 834-8500

OF COUNSEL
D. PAUL JONES, JR.

June 1, 1984

Mr. Charles R. Lowman
General Manager
Alabama Electric Cooperative, Inc.
P. O. Box 550
Andalusia, Alabama 36420

Dear Mr. Lowman:

Enclosed is a draft of the proposed Operating Agreement for the Joseph M. Parley Nuclear Plant. Copies of this document are being furnished to Mr. MacGuineas and Mr. Parish.

Yours very truly,

Robert A. Buettner

Robert A. Buettner

RAB/jw
Enclosure

cc: ✓ D. Biard MacGuineas, Esq.
Mr. Jeff Parish

OPERATING AGREEMENT FOR JOINT OWNERSHIP INTEREST
IN THE JOSEPH M. FARLEY NUCLEAR PLANT UNITS ONE AND TWO
BETWEEN
ALABAMA POWER COMPANY
AND
ALABAMA ELECTRIC COOPERATIVE, INC.

OPERATING AGREEMENT
TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I - APCO's Authority and Responsibility with Respect to Operation of AEC's Percentage Ownership Interest.....	2
1.01 APCO as Agent of AEC.....	2
1.02 AEC's Review of Plant Activities.....	5
ARTICLE II - Entitlements to Output.....	6
2.01 Entitlements of the Parties to Output.....	6
2.02 Determination of Output - Responsibility for Station Service and Losses.....	6
ARTICLE III - Delivery of Power.....	7
3.01 Delivery of Power.....	7
3.02 Metering.....	7
ARTICLE IV - Costs.....	8
4.01 Operating Costs.....	8
4.02 New Investment Costs.....	8
4.03 Incremental Costs.....	10
4.04 Costs Not Susceptible to Precise Quantification.....	10
ARTICLE V - Billing.....	11
5.01 Billing Methods	11
5.02 Rendering Bill.....	11
5.03 Payment.....	12
5.04 Methods of Payment.....	12
5.05 No Arbitration; Resolution of Disputes.....	13
5.06 Billing Adjustments.....	14
ARTICLE VI - Accounting Matters and Access to Books and Records.....	14
6.01 Responsibility and Method of Accounting.....	14
6.02 Confidentiality.....	15
ARTICLE VII - Management of the Facilities; Liability and Allocation of Risk; and Contracts for the Facilities.....	15
ARTICLE VIII - General Covenants.....	16

ARTICLE IX - Waiver of Partition.....	16
ARTICLE X - Assignment.....	16
ARTICLE XI - Insurance.....	16
ARTICLE XII - Destruction; Condemnation.....	17
ARTICLE XIII - Force Majeure.....	17
ARTICLE XIV - Default.....	17
ARTICLE XV - Special Remedies.....	17
ARTICLE XVI - Term of Agreement.....	18
ARTICLE XVII - Accounting Matters.....	18
ARTICLE XVIII - Consultations and Mutual Cooperation; Authorized Representatives.....	18
ARTICLE XIX - Miscellaneous.....	18

OPERATING AGREEMENT FOR JOINT OWNERSHIP INTEREST
IN THE JOSEPH M. FARLEY NUCLEAR PLANT UNITS 1 AND 2
BETWEEN
ALABAMA POWER COMPANY
AND
ALABAMA ELECTRIC COOPERATIVE, INC.

THIS OPERATING AGREEMENT is made and entered into as of _____, _____, between ALABAMA POWER COMPANY ("APCO"), an Alabama corporation with its principal office at 600 North 18th Street, Birmingham, Alabama, and ALABAMA ELECTRIC COOPERATIVE, INC. ("AEC"), an electric cooperative organized under Alabama law, with its principal office at _____, _____, Andalusia, Alabama.

WHEREAS, APCO, an electric utility organized and existing under the laws of the State of Alabama, has constructed and operates a nuclear plant near Dothan, Alabama, referred to as the Joseph M. Farley Nuclear Plant (the "Farley Plant"), subject to the requirements of the licenses issued by the Nuclear Regulatory Commission; and

WHEREAS, AEC is a generation and transmission cooperative organized and existing under the laws of the State of Alabama; and

WHEREAS, simultaneously herewith, APCO and AEC have entered into a Purchase and Ownership Agreement for Joint Ownership Interest in the Farley Nuclear Plant ("Purchase and Ownership Agreement") and a Nuclear Fuel Agreement, under which APCO will sell and AEC will purchase an ownership

interest in Farley Unit 1, Farley Unit 2, Common Facilities, Operating Inventory and the Nuclear Fuel used or to be used for Farley Units 1 and 2; and

WHEREAS, pursuant to the Purchase and Ownership Agreement, APCO is to sell to AEC a joint interest in the Facilities described in such Agreement and, through this Operating Agreement, has agreed to operate AEC's portion of such Facilities, supplying to AEC such electricity as is generated from AEC's portion of these Facilities; and

WHEREAS, AEC agrees to compensate APCO, in the manner provided herein, for the operation of the Facilities and conduct of other activities including, but not limited to, maintenance, construction, refurbishment, and modification of the Facilities or additions thereto as may be required or desirable.

NOW, THEREFORE, in consideration of the premises and the mutual obligations hereinafter stated, the parties hereto agree to the following Operating Agreement governing the Farley Plant.

ARTICLE I

APCO's Authority and Responsibility with Respect to Operation of AEC's Percentage Ownership Interest

1.01 APCO as Agent of AEC.

(a) AEC hereby reaffirms its appointment of APCO (such appointment to be irrevocable for the term of this

Operating Agreement and coupled with an interest) as its sole agent as provided in Section 8.01 of the Purchase and Ownership Agreement, to act on behalf of AEC with respect to all matters specified in such Section 8.01.

(b) As relates to all third parties, this agency designation shall be binding on AEC, and such appointment shall be deemed in effect by each third party until such third party receives written notification from APCO of any termination thereof.

(c) APCO accepts such appointment. APCO shall have the right to exercise such authority granted to it by AEC through a contractor or agent selected by APCO. In any such event, the authority of such contractor or agent shall be coextensive with the authority granted APCO and such contractor and agent shall be an additional beneficiary of all provisions of this Operating Agreement and the other Basic Agreements including, but not limited to, those relating to responsibility of the operator of the facility and payment of cost. In discharging all of its duties and responsibilities hereunder, APCO will not, solely because of AEC's Percentage Ownership Interest in the Facilities, make any adverse distinction between any of the Facilities and any other generating unit or facilities in which APCO has an ownership interest, provided nothing herein shall require APCO to perform (or make it liable to AEC for performing) in any manner different from the manner it would have performed had AEC not

obtained a percentage ownership in the Facilities. In connection with any claim by AEC that APCO has made an adverse distinction solely because of AEC's percentage ownership, the burden of making such demonstration shall be on AEC. APCO's duties and responsibilities under this Operating Agreement shall include, but not be limited to, establishing organizational structure and manpower requirements, maintaining an adequate work force through APCO's personnel administration policies, arranging and procuring necessary or desirable materials and services for operation of the Facilities, determining scheduled outages for routine inspections, refueling and general maintenance, scheduling, dispatching and loading of the Facilities, preparing and filing applications, reports and other documents relating to operation of the Facilities, establishing reasonable rules for visits to the Facilities, and determining the need for, and subsequently constructing, any capital additions or modifications to the Facilities. Nothing herein shall interfere with APCO's authority and responsibility for the operation of, maintenance of, modifications to, fueling of, and improvements to all of its other generation facilities. APCO shall make available upon request by AEC regularly prepared monthly reports which contain specific information on the Facilities, including, but not limited to, operating expenses, maintenance expenses, fuel expenses, generating statistics, fuel reports, operating statistics, and other information reasonably available. APCO

will also have the right to submit data relating to operation of the Facilities to any other entity. APCO shall also provide AEC oral notice of scheduled and emergency outages of Farley Unit 1 or Farley Unit 2 in a manner and at times convenient to APCO. Should AEC desire to have capability for determining automatically the current level of generation at the Farley Plant, AEC shall bear the full cost incurred by APCO on installing, operating, and maintaining equipment necessary to provide such capability and shall reimburse APCO for any cost expended by APCO in connection therewith.

(d) AEC agrees that it will take all necessary action in a prompt manner to execute any agreements with respect to the operation, maintenance, modifications and fueling of the Facilities as and when requested by APCO to permit APCO to carry out its authority and responsibilities pursuant to this Section 1.01.

(e) AEC expressly agrees that APCO does not, by this Operating Agreement, assume any risks or liabilities with respect to AEC's Percentage Ownership Interest and that the amounts paid and payable to APCO under the Basic Agreements are determined on the basis that APCO does not assume any such risks or liabilities.

1.02 AEC's Review of Plant Activities. APCO shall, upon receipt of reasonable notice from AEC in advance, make arrangements for visitation by representatives of AEC at the plant provided such visits shall not, in the sole opinion of

APCO, interfere with APCO's operation of the plant or jeopardize plant safety. During any such visit by AEC representatives, APCO personnel may accompany such AEC representatives at all times. AEC shall assure that its representatives comply with all applicable rules and regulations in effect at the Farley Plant whether imposed by governmental authority or by APCO.

ARTICLE II

Entitlements to Output

2.01 Entitlements of the Parties to Output. Subject to the provisions of Articles XI, XV and XVI of the Purchase and Ownership Agreement, AEC shall be entitled to its Percentage Ownership Interest of the output from Farley Units 1 and 2 at the time generation in such units occurs. Subject to the provisions of Articles XI, XV or XVI of the Purchase and Ownership Agreement, APCO shall be entitled to the balance of the output from each unit.

2.02 Determination of Output - Responsibility for Station Service and Losses. Output of the Farley Plant shall be the gross generation of Farley Units 1 and 2, less station service requirements, and less adjustments for losses experienced. In the event the output is negative, that is, the station service and losses exceed the gross generation, AEC shall pay APCO for its share of the energy consumed or lost at the plant during such period on the basis of APCO's incremental energy cost at that time.

ARTICLE III

Delivery of Power

3.01 Delivery of Power. APCO shall deliver to AEC the output to which it is entitled under Article II, such delivery to be made at the points where the 500 and 230 kilovolt transmission lines connect to bus bars in the transmission substation at the Farley Plant. Transmission of such output by APCO for AEC shall be governed by the provisions of a separate agreement.

3.02 Metering.

(a) No special metering shall be installed at the Farley Plant, it being understood that the output to which AEC is entitled pursuant to Article II hereof shall be determined by appropriately adjusting the metered quantities to reflect the capacity and energy delivered to AEC at the point of delivery described in Section 3.01. AEC shall bear the costs of any additional metering or data acquisition equipment which is required to measure accurately the delivery of power to AEC from the Farley Plant.

(b) The meters will be sealed and seals will be broken only by APCO and only when meters are to be tested or adjusted. The meters will be tested at suitable intervals and the accuracy of registration shall be maintained. At AEC's request, a special test of any meter will be performed. All costs of such a test will be borne by AEC. Representatives of AEC shall be afforded the opportunity to be present at all routine or special tests.

ARTICLE IV

Costs

4.01 Operating Costs. On or before the first day of January of each year during the term of this Operating Agreement, APCO shall provide to AEC a monthly estimate of operating costs for the twelve (12) month period commencing on that January 1. APCO will also provide to AEC, upon request, such estimates of operating costs for future years as APCO shall have prepared for its own use. The estimate shall not be binding on APCO but shall be provided solely to assist AEC in planning. During the term of this Operating Agreement, AEC shall pay to APCO its pro rata share of the costs of operating and maintaining the Facilities in accordance with Appendix A hereto. The pro rata share of AEC shall be subject to change from time to time in accordance with Articles XI, XV or XVI of the Purchase and Ownership Agreement. The operating costs shall be paid on an estimated basis as provided in Article V hereof, subject to adjustment based on actual cost.

4.02 New Investment Costs.

(a) On or before the first day of January of each year during the term of this Operating Agreement, APCO shall provide to AEC a monthly estimate of New Investment for the twelve (12) month period commencing on that January 1. APCO will also provide to AEC, upon request, such estimates of New Investment for future years as APCO shall have prepared for its own use. The estimate shall not be binding on APCO but

shall be provided solely to assist AEC in planning for its capital requirements.

(b) At the times specified in Section V hereof, APCO will submit an invoice to AEC for its share (as provided in Section 4.02(d) below) of the next month's estimated expenditures for New Investment. Such cost will be as described in Appendix B hereto. When the actual expenditures for New Investment for that month have been determined by APCO and recorded on its books of account, an adjustment shall be made by APCO to reflect a credit or additional charge to AEC.

(c) APCO shall also furnish AEC monthly, in addition to the estimate of expenditures for New Investment during the next month, the then current estimates of the New Investment for each of the remaining months in that calendar year (unless there is no change), which estimates may be different from the monthly estimate originally furnished on or before January 1 pursuant to Section 4.02(a). The delivery of such estimates (which estimate shall not be binding upon APCO but shall be provided solely to assist AEC in planning for its capital requirements) of New Investment for the remaining months of the calendar year shall constitute notice by APCO to AEC of any change in APCO's estimate. APCO agrees, however, to use reasonable efforts to give AEC as much advance notice of New Investment estimate changes as is practicable, particularly in the case of changes which may substantially increase the amount AEC must pay for its share of New Investment in a future month.

(d) AEC's share of New Investment to be paid to APCO each month shall be a percentage of New Investment for such month equal to AEC's Percentage Ownership Interest in the Facilities as such specified Percentage Ownership Interest shall be modified in accordance with the provisions of Articles XI, XV or XVI of the Purchase and Ownership Agreement.

4.03 Incremental Costs. Any incremental costs due to be paid by AEC under any of the Basic Agreements after Closing shall be paid by AEC each month based on APCO's estimate of such incremental costs to be incurred during the next month. When such actual incremental costs for that month have been determined by APCO, an adjustment shall be made by APCO to reflect a credit or additional charge to AEC.

4.04 Costs Not Susceptible to Precise Quantification.

(a) In addition to paying its pro rata share of all costs as described in Section 4.01, AEC shall pay APCO a monthly amount equal to ten percent (10%) of the operating and maintenance cost payable pursuant to Section 4.01 to cover costs to APCO which are not susceptible to precise quantification.

(b) In addition to paying its pro rata share of all New Investment as described in Section 4.02, AEC shall pay APCO ten percent (10%) of the monthly charges to AEC associated with such New Investment to cover costs to APCO which are not susceptible to precise quantification.

(c) The amounts provided for herein shall be reflected on the bills rendered in accordance with Article V relating to estimated costs and shall be due and payable as of the time specified therein. Such amounts shall be adjusted at the times actual expenditures have been determined.

ARTICLE V

Billing

5.01 Billing Methods. Billing for all payments due under this Operating Agreement shall be in the format provided in Appendix C.

5.02 Rendering Bill. APCO shall render to AEC monthly a billing statement no later than the twentieth (20th) day of each month, transmitted by wire or delivered by courier, covering the estimated amounts due for the next succeeding month for (a) operating costs pursuant to Section 4.01; (b) New Investment costs pursuant to Section 4.02; (c) incremental costs pursuant to Section 4.03; and (d) costs specified in Section 4.04. When the actual expenditures for operating costs, New Investment costs and incremental costs for that month have been determined by APCO and recorded on its books of account, an adjustment shall be made by APCO to reflect a credit or additional charge to AEC and such credit or additional charge shall appear, with interest at the Regular Interest Rate payable to the appropriate party, on the monthly invoice next delivered after determination of the actual

expenditures. A credit or additional charge shall also be made because of the impact which any such adjustment to actual cost would have on charges under Section 4.04.

5.03 Payment. Payment for items billed under Section 5.02 shall be due on the first day of the month following the month in which the bill is presented. The obligation to make payments as specified herein shall continue notwithstanding the capability (or lack of capability) of the Farley Plant to produce power, for any reason. If payment is not received by such due date, interest at the Special Interest Rate will accrue from date due until payment is received. In the event payment is made in an amount less than the amount due pursuant to the bill rendered, the monies paid to APCO by AEC shall be applied, first, to any interest due to APCO under the Basic Agreements; second, to incremental costs pursuant to Section 4.03; third, to AEC's share of operating and maintenance expenses of the Facilities pursuant to Section 4.01 and other costs specified in Section 4.04(a); and fourth, to New Investment costs pursuant to Section 4.02 and other costs specified in Section 4.04(b).

5.04 Methods of Payment. All payments required to be made by AEC under this Operating Agreement in excess of \$10,000 shall be paid on or before the due date in immediately available funds by delivery (before 11:00 a.m., Birmingham time) of either a Federal Reserve check or evidence of bank wire to APCO's account, at a bank designated by APCO. If any

such payment is to be made by bank wire, APCO shall advise AEC of the appropriate bank and account number at least one business day before the payment is due. All other payments required to be made under this Operating Agreement may be made by check deposited in the United States mail three (3) days prior to the date due, first-class postage prepaid, and addressed to Treasurer, Alabama Power Company, P. O. Box 2641, Birmingham, Alabama, 35291.

5.05 No Arbitration; Resolution of Disputes. Neither party shall have the right to arbitrate any dispute that might arise with respect to this Operating Agreement. Any disagreement between the parties as to their rights or obligations under this Operating Agreement shall first be addressed by consultation between the Authorized APCO Representatives as determined in accordance with Section 19.03 of the Purchase and Ownership Agreement and the Authorized AEC Representative as determined in accordance with Section 19.02 of the Purchase and Ownership Agreement. In the event such representatives are unable to resolve satisfactorily their disagreement, they shall refer the matter to senior management of each party. No dispute as to the payment of an invoice rendered by APCO shall permit AEC to delay payment of the disputed invoice, in full, on its payment date. If AEC shall have paid any such disputed invoice, in full, on or before its payment date and if the Authorized APCO Representative and the Authorized AEC Representative, or the parties' senior management, or a court

of competent jurisdiction, should later determine that a disputed invoice was for an amount in excess of the correct amount due, then APCO shall be obligated to refund the difference to AEC with interest, if any, upon such amount as follows:

(a) If such difference resulted from a deviation from an estimate not caused by error or bad faith, interest shall be payable at the Regular Interest Rate;

(b) If such difference resulted from an error, interest shall be payable at the Regular Interest Rate; and

(c) If such difference resulted from bad faith, such interest shall be payable at the Special Interest Rate.

5.06 Billing Adjustments. Billing errors or adjustments to estimates of \$5,000 or more discovered through (i) resolution of billing disagreements pursuant to Section 5.05, (ii) audit, or (iii) normal billing procedures, will be adjusted and interest will accrue at the Regular Interest Rate, unless otherwise determined pursuant to Section 5.05, from the date of payment of the original bill through the date of payment of the adjustment. Adjustments of less than \$5,000 will be made, but no interest will accrue.

ARTICLE VI

Accounting Matters and Access to Books and Records

6.01 Responsibility and Method of Accounting. All accounting related to the transactions contemplated by this

Operating Agreement shall utilize the accrual method of accounting and shall be in accordance with Generally Accepted Accounting Principles, FERC's Uniform System of Accounts or as prescribed by other regulatory agencies having jurisdiction all as in effect from time to time.

6.02 Confidentiality. During the term of this Operating Agreement, it may become necessary or desirable, from time to time, for one Party to provide to the other Party information which is either confidential or proprietary. The Party desiring to protect any such information (the labelling Party) may label such information as either confidential or proprietary and thereafter the other Party will not reproduce, copy, use or disclose (except when required by governmental authorities) any such information in whole or in part for any purpose without the written consent of the labelling Party. In disclosing confidential or proprietary information to governmental authorities, the disclosing Party shall cooperate with the labelling Party in minimizing the amount of such information furnished. At the specific request of the labelling Party, the other Party will endeavor to secure the agreement of such governmental authorities to maintain specified portions of such information in confidence.

ARTICLE VII

Management of the Facilities;
Liability and Allocation of
Risk; and Contracts for the Facilities

The provisions of Article VIII of the Purchase and

Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE VIII

General Covenants

The provisions of Article IX of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE IX

Waiver of Partition

The provisions of Article X of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE X

Assignment

The provisions of Article XI of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XI

Insurance

The provisions of Article XII of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XII

Destruction; Condemnation

The provisions of Article XIII of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XIII

Force Majeure

The provisions of Article XIV of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XIV

Default

The provisions of Article XV of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XV

Special Remedies

The provisions of Article XVI of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XVI

Term of Agreement

The provisions of Article XVII of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XVII

Accounting Matters

The provisions of Article XVIII of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XVIII

Consultations and Mutual Cooperation;
Authorized Representatives

The provisions of Article XIX of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

ARTICLE XIX

Miscellaneous

19.01 The provisions of Article XX of the Purchase and Ownership Agreement are incorporated herein by reference and shall apply as if set forth herein in full.

19.02 Terms used in this Operating Agreement which are defined in the Purchase and Ownership Agreement shall have the same meaning.

IN WITNESS WHEREOF, the parties have hereto caused this Operating Agreement to be signed and sealed as of _____, 1984 by their duly authorized representatives.

ALABAMA POWER COMPANY

By _____

ATTEST:

Corporate Secretary

ALABAMA ELECTRIC COOPERATIVE,
INC.

By _____

ATTEST:

STATE OF ALABAMA:
JEFFERSON COUNTY to-wit:

The foregoing instrument was acknowledged before me this
____ day of _____, 1984 by _____ and
_____, President and Corporate
Secretary, respectively, of Alabama Power Company, an Alabama
corporation, on behalf of the Corporation.

My commission expires: _____

Notary Public

STATE OF ALABAMA:
COVINGTON COUNTY to-wit:

The foregoing instrument was acknowledged before me this
____ day of _____, 1984 by _____
and _____ and
_____, respectively, of Alabama Electric Cooperative,
Inc., an Alabama corporation, on behalf of the Corporation.

My commission expires: _____

Notary Public

Alabama Electric Cooperative, Inc.
Post Office Box 550
Andalusia, Alabama 36420
(205) 222-2571

Charles R. Lowman
General Manager



January 20, 1984

Jesse S. Vogtle, Esq.
Alabama Power Company
600 North 18th Street
Birmingham, Alabama 35203

Dear Mr. Vogtle:

Enclosed is AEC's proposed Agreement (three copies) covering AEC's proportionate ownership interest in the Farley nuclear units, related nuclear fuel, and operation of the units. Under separate cover, from Jeff Parish, we are furnishing you with the proposed changes in the Off-System Wheeling Agreement which are necessary to accommodate delivery of AEC's share of the units' output to AEC's members.

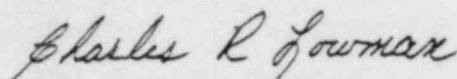
With respect to Article IV (Nuclear Fuel) and other sections of the proposed Agreement relating to nuclear fuel, we cannot propose definite language governing AEC's share in Alabama Power's interest in the fuel until the Company furnishes us with copies of the agreements and leases governing APCo's ownership and leasing of the fuel. Obviously, we cannot determine APCo's actual costs for nuclear fuel until we can understand the nature of APCo's interests in the fuel and the actual payments required of APCo for those interests. Naturally we are willing to accept copies of these agreements and leases on a confidential basis if desired, and to limit their availability to specified AEC personnel and consultants.

Our past correspondence and discussions at the suggestion of the Company have been confined to an outline of the basis on which the Company would sell AEC its ownership share in the Farley units. We believe that much greater progress towards compliance with the Company's antitrust license conditions can be made if we focus on the specific terms of an ownership agreement, particularly since such agreements have become an industry norm. Hence, we enclose a proposed Agreement. This Agreement is consistent with AEC's positions set forth in our previous correspondence, particularly our letter to you of October 11, 1983, and is generally consistent with other nuclear unit joint ownership agreements found throughout the electric power industry.

Jesse S. Vogtle, Esq.
January 20, 1984
Page 2

We look forward to receipt of the nuclear fuel leases and agreements, and communication from you relative to a meeting in the near future to discuss the proposed Agreement.

Sincerely,



Charles R. Lowman
General Manager

CRL:elf

Enclosures

cc: D. Biard MacGuineas, Esq.
Mr. M. J. Parish, III

D R A F T
As of January 1984

JOSEPH M. FARLEY NUCLEAR PLANT
JOINT OWNERSHIP, OPERATING, AND NUCLEAR FUEL AGREEMENT

Between
ALABAMA POWER COMPANY
And
ALABAMA ELECTRIC COOPERATIVE, INC.

Dated as of _____, 1984

Table of Contents

ARTICLE I - DEFINITIONS

- 1.01 AEC
- 1.02 APCO
- 1.03 Application
- 1.04 Capacity
- 1.05 CFC
- 1.06 Closing
- 1.07 Cost of Operation
- 1.08 Cost of Ownership
- 1.09 Energy
- 1.10 Immediately Available Funds
- 1.11 Interconnection Agreement
- 1.12 NRC
- 1.13 Nuclear Fuel
- 1.14 Ownership Share
- 1.15 Operating License
- 1.16 Plant Farley
- 1.17 REA
- 1.18 SEC
- 1.19 Wheeling Agreement

ARTICLE II - OWNERSHIP OF UNDIVIDED INTEREST IN PLANT FARLEY BY AEC

- 2.01 Execution, Delivery, and Recording of Agreement; Closing
- 2.02 Real Property Conveyed
- 2.03 Price
- 2.04 As Is Sale
- 2.05 Waiver of Right of Partition
- 2.06 Waiver of Right of Eminent Domain
- 2.07 Release from Mortgage
- 2.08 Proportionate Ownership
- 2.09 Contracts with Third Parties
 - (a) Assignment
 - (b) Acceptance of Contract Provisions
 - (c) Enforcement of Rights Under Contracts
- 2.10 Insurance
- 2.11 Rights of Refusal by APCo
- 2.12 Right to Mortgage

ARTICLE III - OPERATING AGREEMENT

- 3.01 Output
- 3.02 Delivery of Output
- 3.03 Payment of Cost of Operations

- (a) Funds
 - (b) Payment to Funds by AEC
 - (c) Operation and Maintenance Fund
 - (d) Fuel Fund
 - (e) Capital Additions Fund
 - (f) Decommissioning Fund
- 3.04 Outages
- 3.05 Fines and Penalties
- 3.06 Default
- (a) Events of Default
 - (b) Remedies for Default

ARTICLE IV - NUCLEAR FUEL

4.01 Nuclear Fuel

ARTICLE V - GENERAL CONDITIONS AND COVENANTS OF THE PARTIES

- 5.01 APCo Control as Agent
- 5.02 No Adverse Distinction
- 5.03 Consequential Damages
- 5.04 Taxes
- 5.05 Sharing of Costs
- 5.06 Liabilities of the Parties
- 5.07 Confidentiality
- 5.08 Access and Observation
- 5.09 Examination of Records-Audits
- 5.10 Data Provided to AEC
- 5.11 Budgets and Cost Projection
- 5.12 Termination of Wholesale Power Agreements
- 5.13 Deficit Power
- 5.14 Buy American
- 5.15 Environment
- 5.16 Safety
- 5.17 Historic Places
- 5.18 Flood Insurance Act
- 5.19 Public Officials Not to Benefit
- 5.20 Kickbacks
- 5.21 Equal Opportunity Clause
- 5.22 Nonsegregated Facilities
- 5.23 Disclosure
- 5.24 Uncontrollable Forces
- 5.25 Severability
- 5.26 Commitment for Financing
- 5.27 Regulatory Approvals
- 5.28 Survival
- 5.29 Further Assurance
- 5.30 Governing Law
- 5.31 Notice
- 5.32 Headings Not to Affect Meaning
- 5.33 No Partnership

- 5.34 Time of Essence
- 5.35 Amendments
- 5.36 Successors and Assigns
- 5.37 Counterparts
- 5.38 License Conditons
- 5.39 REA Approval

ARTICLE VI - TERM AND TERMINATION

- 6.01 Termination
- 6.02 Retirement Costs

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ARTICLE I - DEFINITIONS

Section 1.01. AEC shall mean Alabama Electric Cooperative, Inc.

Section 1.02. APCO shall mean Alabama Power Company.

Section 1.03. Application shall mean the applications of APCO before the NRC for the construction and operation of the Farley Nuclear Plant presently designated Docket No. 50-348 as to Unit No. 1 and Docket No. 50-364 as to Unit No. 2, as heretofore or hereafter supplemented or amended.

Section 1.04. Capacity shall mean the capability of producing (or consuming) energy and is measured in megawatts.

Section 1.05. CFC shall mean the National Rural Utilities Cooperative Finance Corporation, a District of Columbia private not-for-profit cooperative association.

Section 1.06. Closing shall mean _____ 1984, or such other date as may be mutually set by APCO and AEC, which date in any event shall be subsequent to the execution and delivery of this Agreement, and at the Closing the parties shall meet the other conditions provided in this Agreement for the Closing.

Section 1.07. Cost of Operation shall mean the costs of management, maintenance, repair and operating and related taxes, incurred under or with respect to this Agreement and attributable or allocable to Plant Farley, including operating expenses, cost of Nuclear Fuel, insurance and liability payments, employee pensions and benefits, payroll and other taxes and appropriate allocations of expenses classified as

60 administrative and general expenses, and any other cost incurred
60
61 in connection with Plant Farley, including addition,
61
62 replacement, decommissioning, entombment, or disposal costs
62
63 incurred after the date of Closing of this Agreement which is
63
64 not a Cost of Ownership, all of which shall be calculated in
64
65 accordance with any applicable rules and regulations.

66 Section 1.08. Cost of Ownership shall mean all costs
66
67 (except financing costs) incurred up to the date of Closing in
67
68 connection with the planning, design, licensing, acquisition,
68
69 construction, completion, startup, renewal, addition,
69
70 replacement of the Farley Nuclear Plant or any portion thereof,
70
71 calculated in accordance with any applicable rules and
71
72 regulations.

72
73 Section 1.09. Energy shall mean the quantity of electricity
73
74 produced (or consumed) over a period of time and is measured
74
75 in megawatt hours.

75
76 Section 1.10. Immediately Available Funds shall mean funds
76
77 good and available to the payee on the day when paid.

77
78 Section 1.11. Interconnection Agreement shall mean the
78
79 "Interconnection Agreement Between Alabama Power Company and
79
80 Alabama Electric Cooperative, Inc." dated May 5, 1980, and any
80
81 amendments thereto.

81
82 Section 1.12. NRC shall mean Nuclear Regulatory Commission,
82
83 and its predecessor agency, the Atomic Energy Commission.

83
84 Section 1.13. Nuclear Fuel shall mean any source material,
84
85 special nuclear material or by-product material as defined in
85

86 the Atomic Energy Act of 1954, as amended and as may be amended
86
87 from time to time, including any ores, mined or unmined, or
87
88 concentrates from which any such material can be obtained, and
88
89 any fuel assemblies, any of which are acquired for Plant Farley.

89
90 Section 1.14. Ownership Share. Plant Farley will be
90
91 jointly owned with each party having an undivided ownership
91
92 interest equal to its Ownership Share. The Ownership Share for
92
93 AEC shall be 6.70% and the Ownership Share for APCO shall be
93
94 93.30%.

94
95 Section 1.15. Operating License shall mean the facility
95
96 operating license or licenses for Plant Farley, as amended,
96
97 presently designated as NPF-2 and NPF-8.

97
98 Section 1.16. Plant Farley will be the land described in
98
99 Exhibit ___ plus all the improvements thereon associated with
99
100 the Farley Nuclear generating plant including, but not limited
100
101 to, roads, railroad tracks, parking facilities, visitor center,
101
102 emergency operations center, fences, spare parts, storage
102
103 facilities, intake structures, Unit 1 and Unit 2 containment
103
104 buildings, Unit 1 and Unit 2 turbo-generators, Unit 1 and Unit
104
105 2 cooling towers, and associated equipment including the step-up
105
106 substation necessary to deliver the Output to the transmission
106
107 system. However, no facilities associated with the transmission
107
108 system of APCO that would be included in any wheeling investment
108
109 covered by the Wheeling Agreement or Schedule I of the
109
110 Interconnection Agreement shall be included herein.

110
111 Section 1.17. REA shall mean Rural Electrification
111

112 Administration.

112

113 Section 1.18. SEC shall mean Securities and Exchange

113

114 Commission.

114

115 Section 1.19. Wheeling Agreement shall mean the "Agreement

115

116 for Transmission Service to Distribution Cooperative Members

116

117 of Alabama Electric Cooperative" dated August 28, 1980, and

117

118 any amendments thereto.

118

119

120 ARTICLE II - OWNERSHIP OF UNDIVIDED INTEREST

120

121 IN PLANT FARLEY BY AEC

121

122

123 Section 2.01. Execution, Delivery and Recording of

123

124 Agreement; Closing. It is contemplated that, subject to the

124

125 obtaining by each party of all necessary regulatory and creditor

125

126 consents and approvals and to the satisfaction of any terms

126

127 and conditions provided in this Agreement, APCO and AEC will

127

128 execute and deliver this Agreement, and that this Agreement

128

129 will be thereafter promptly recorded in the property records

129

130 of Houston County, Alabama, and in each other official office

130

131 where either of the parties deems it to be necessary or

131

132 appropriate. Subsequent thereto, AEC will promptly submit this

132

133 Agreement and all other necessary documentation to the REA for

133

134 final approval by REA and will use its best efforts to obtain

134

135 such approval at the earliest practicable time. Subject to the

135

136 terms and conditions hereof, at the Closing provided for herein,

136

137 AEC will tender for payment to APCO \$_____ in full payment

137

138 for AEC's Ownership Share of the Cost of Ownership, as adjusted

138

139 for depreciation and other factors described elsewhere herein,
139
140 incurred to the date of the Closing.

140
141 Section 2.02. Real Property Conveyed. At Closing, APCO
141
142 shall convey to AEC an undivided ownership interest in a percent
142
143 equal to AEC's Ownership Share in all land and improvements
143
144 associated with Plant Farley. Such land is described in Exhibit
144
145 ____, and shall be conveyed by warranty deed in the form set
145
146 out in Exhibit _____. If, in the future, additional facilities
146
147 are required in association with Plant Farley on land in which
147
148 AEC does not have an Ownership Share interest, then APCO will
148
149 convey to AEC AEC's Ownership Share interest in the land
149
150 underlying those additional facilities at AEC's Ownership Share
150
151 of APCO's total book cost. Should APCO desire to construct
151
152 facilities having no relationship or purpose associated with
152
153 Plant Farley, and should those facilities not interfere with
153
154 the existing or projected use of Plant Farley, on any land in
154
155 which AEC has an Ownership Share interest, then AEC will
155
156 reconvey its ownership interest in that land to APCO for book
156
157 value. After the plant has been decommissioned and is no longer
157
158 useful to APCO or AEC, then AEC shall reconvey to APCO the
158
159 Ownership Share interest of AEC in all land sold to it in
159
160 connection with Plant Farley at book value.

160
161 Section 2.03. Price.

161
162 Plant Farley. The price to be paid for Plant Farley by
162
163 AEC will be AEC's Ownership Share percentage multiplied by the
163
164 adjusted net book cost plus AEC's Ownership Share percentage
164

165 multiplied by any construction work in progress. The net book
165
166 cost shall be the original book cost of Plant Farley, including
166
167 land and associated nuclear, production, transmission and
167
168 substation plant less book straight line depreciation including
168
169 an amount for a decommissioning reserve. An adjustment shall
169
170 be made to the land component for any land acquired for Plant
170
171 Farley, but not sold to AEC. A further adjustment to net book
171
172 cost shall be made to adjust for AEC's cost of money AEC would
172
173 have provided during construction and for long term financing
173
174 as if AEC had been a joint owner from January 1, 1972.

174
175 Nuclear Fuel. The price to be paid by AEC for Nuclear Fuel
175
176 associated with Plant Farley shall be the Ownership Share of
176
177 AEC multiplied by the net book cost plus the Ownership Share
177
178 multiplied by Nuclear Fuel construction work in progress. The
178
179 net book cost shall be original cost of Nuclear Fuel less
179
180 amortization for burnup excluding the reserve for permanent
180
181 disposal of Nuclear Fuel.

181
182 Closing Date. The price to be paid by AEC shall be adjusted
182
183 to the Closing date based upon the principles above. AEC shall
183
184 have one year from the date of Closing to audit and verify
184
185 the amount paid to APCO for the purchase of Plant Farley and
185
186 associated Nuclear Fuel.

186
187 Section 2.04. "AS IS" SALE. THE FACILITIES TO BE SOLD
187
188 UNDER THIS AGREEMENT SHALL BE SOLD ON AN "AS IS - WHERE IS"
188
189 BASIS. APCO MAKES NO WARRANTY OR REPRESENTATION WHATSOEVER,
189
190 EXPRESS, IMPLIED OR STATUTORY, AND DISCLAIMS ANY AND ALL
190

191 WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION
191
192 OR WARRANTY AS TO THE VALUE, QUANTITY, QUALITY, CONDITION,
192
193 SALABILITY, OBSOLESCENCE, MERCHANTABILITY, FITNESS OR SUITABILITY
193
194 FOR USE OR WORKING ORDER OF ALL OR ANY PART OF SAID FACILITIES.
194
195 NOTWITHSTANDING THE FOREGOING, AEC SHALL HAVE THE BENEFIT, IN
195
196 PROPORTION TO AEC'S OWNERSHIP SHARE, OF ALL MANUFACTURERS',
196
197 VENDORS', AND CONTRACTORS' WARRANTIES AND ALL PATENTS AND
197
198 LICENSES, IF ANY, RUNNING TO APCO IN CONNECTION WITH THE
198
199 FACILITIES TO BE SOLD UNDER THIS AGREEMENT, SUBJECT TO THE
199
200 PROVISIONS OF SECTION 2.08 HEREOF DEALING WITH CONTRACTS WITH
200
201 THIRD PARTIES.

201
202 Section 2.05. Waiver of Right of Partition. Both parties
202
203 hereby waive any right, whether pursuant to statute or common
203
204 law, to partition the facilities, or any portion thereof, and
204
205 such waiver shall continue in effect until the agreement is
205
206 terminated in accordance with the termination provision.

206
207 Section 2.06. Waiver of Right of Eminent Domain. Both
207
208 parties agree to waive any right of eminent domain that either
208
209 party may have with respect to the other party's interest in
209
210 Plant Farley. The inclusion of this provision in this Agreement
210
211 does not acknowledge or admit that either party has the right
211
212 of eminent domain over the other party.

212
213 Section 2.07. Release from Mortgage. On or prior to
213
214 Closing, APCO will have obtained a release from the lien of the
214
215 APCO Mortgage of at least AEC's Ownership Share of Plant Farley
215
216 and the Nuclear Fuel on such date. The Ownership Share interest
216

217 conveyed to AEC by APCO as provided by this Agreement shall
217
218 be conveyed free and clear of any mortgage or lien.

218 Section 2.08. Proportionate Ownership. The parties' intent
219
220 is that, from and after the Closing, APCO and AEC, by virtue
220
221 of this Agreement and any conveyance or transfer of title
221
222 provided for herein, will each have title to Plant Farley and
222
223 the unexpended Nuclear Fuel as tenants in common in proportion
223
224 to their respective undivided Ownership Shares therein, and
224
225 that unless otherwise expressly provided in this Agreement,
225
226 neither party will have any title in or to the undivided
226
227 ownership interest of the other party.

227 Section 2.09. Contracts with Third Parties.

228 (a) Assignment. APCO has acquired or executed, and will in
228
229 the future acquire or execute, certain contracts, permits,
229
230 authorizations, licenses, or other intangible rights relating
230
231 to Plant Farley. By execution of this Agreement, APCO shall,
231
232 as of the Closing, be deemed to have granted, conveyed, and
232
233 assigned to AEC, to the extent permitted by law, contract, or
233
234 otherwise, an undivided interest in such existing or future
234
235 contracts, permits, authorizations, licenses, or other
235
236 intangible rights with respect to Plant Farley, equal to the
236
237 undivided Ownership Share of AEC specified in Section 1.14,
237
238 and AEC shall be deemed to have been granted such an undivided
238
239 Ownership Share of the benefits, and to have accepted and
239
240 assumed an Ownership Share of the obligations, of all such
240
241 contracts, permits, authorizations, licenses, or other intangible
241
242

243 rights. AEC agrees to be bound by the terms of all contracts,
243
244 permits, authorizations, or licenses relating to Plant Farley
244
245 (including any provisions that limit or protect against
245
246 liability, nuclear and non-nuclear, or exclude any warranties)
246
247 to the same extent as if AEC were an original signatory to such
247
248 contract, permit, authorization or license or otherwise a party
248
249 thereto, provided that AEC's liabilities under any such contract
249
250 shall be limited to its undivided Ownership Share.
250

251
252 (b) Acceptance of Contract Provisions. APCO in such contracts
252
253 has agreed to certain matters including, but not limited to,
253
254 limitations on the liability of such contractors for work
254
255 performed or materials furnished, restrictions on warranties,
255
256 agreements to indemnify the contractors from liability and other
256
257 provisions. AEC waives any claims against APCO for having
257
258 entered into such contracts or agreed to the provisions thereof.
258
259 AEC also recognizes that a number of the APCO contracts relating
259
260 to Plant Farley contain provisions that require APCO to obtain
260
261 from any assignee or transferee prior to any assignment of
261
262 rights under such contract or any transfer of materials,
262
263 equipment or work product, or any interest therein obtained by
263
264 APCO pursuant to such a contract, an agreement by such assignee
264
265 or transferee that it will be bound by all of the requirements
265
266 for financial protection, waivers, releases, indemnifications,
266
267 limitations of liability and further transfers or assignments
267
268 that bind APCO under such contracts. AEC agrees that it will
268
269 be so bound by the requirements for financial protection,
269

270 waivers, releases, indemnification, limitation of liability and
270
271 further transfers that bind APCO as they now exist or may in
271
272 the future be with respect to all contracts relating to Plant
272
273 Farley or Nuclear Fuel.
273
274
275 (c) Enforcement of Rights Under Contracts. AEC covenants that,
275
276 without the written consent of APCO, it will not threaten suit
276
277 or bring suit against third parties or otherwise make any claim
277
278 under any contract or arrangement relating to Plant Farley and
278
279 AEC recognizes that APCO has complete and exclusive authority,
279
280 under the agreements, with respect to all such matters. If
280
281 AEC desires for suit to be threatened or brought or otherwise
281
282 for any claim to be made, or desires that such action
282
283 contemplated by APCO shall not be taken, AEC shall, by written
283
284 notice to APCO, request APCO so to act or refrain from acting.
284
285 Upon receipt of such notice the parties shall arrange for
285
286 consultation on the questions raised within 10 working days
286
287 thereafter, or such lesser period of time as APCO, in its sole
287
288 discretion, shall specify in the light of circumstances
288
289 requiring a more expeditious determination. APCO shall not make
289
290 its determination until after such consultation but such
290
291 determination by APCO shall be final and binding on AEC.
291
292 Section 2.10. Insurance. APCO will keep in force the
292
293 nuclear liability insurance and the indemnity agreement with
293
294 respect to Plant Farley as required by Section 170 of the Atomic
294
295 Energy Act of 1954, as amended (42 U.S.C.A. Sec. 2210), and
295
296 such other insurance as may be necessary to comply with any
296

297 applicable regulations of the NRC or any other regulatory agency
297
298 having jurisdiction, with APCO and AEC being named therein in
298
299 proportion to their respective undivided ownership interests
299
300 in Plant Farley. The aggregate cost of all insurance procured
300
301 pursuant to this Section shall be considered a Cost of Ownership
301
302 and as such shall be apportioned between APCO and AEC pursuant
302
303 hereto. AEC may at its sole expense purchase and take out any
303
304 additonal insurance for its sole use and benefit as AEC may
304
305 deem appropriate, provided the interests of APCO are not thereby
305
306 adversely affected. AEC shall advise APCO of the terms of any
306
307 such additional insurance prior to entering into any contract
307
308 therefor. All of the insurance policies obtained by either
308
309 party shall contain waivers of subrogation against the other
309
310 party, if obtainable from the insurer. If not prohibited under
310
311 the terms of the insurance contracts, APCO and AEC hereby waive
311
312 their rights of recovery against each other to the extent that
312
313 any loss experienced by APCO or AEC is covered by insurance
313
314 carried by or on behalf of either party.

314
315 Section 2.11. Right of Refusal by APCO. During the term
315
316 of this Agreement, should AEC desire to sell all or a portion
316
317 of its Ownership Share in Plant Farley to a third party, then
317
318 APCO has the rights of first refusal to purchase that portion
318
319 of AEC's Ownership Share that would otherwise be sold to the
319
320 third party. After receipt of a good faith offer from said
320
321 third party by AEC, AEC shall give APCO written notice of such
321
322 intent to sell and the stated price. APCO shall have 30 days
322

323 to respond and shall have the right to buy AEC's interest to
323
324 be sold, by meeting the proposed terms, conditions and selling
324
325 price to the third party. Should APCO respond by stating that
325
326 it does wish to buy the interest, then APCO shall have 90 days
326
327 to close, and in the event that APCO does not do so, then the
327
328 sale may be made by AEC to the third party. Should APCO not
328
329 respond within the thirty day period that it intends to buy
329
330 AEC's interest proposed to be sold, then AEC has the right to
330
331 consummate the sale to the third party.

331
332 For the purpose of this provision, any mortgage, sale and
332
333 lease back, merger, acquisition, or similar action by AEC shall
333
334 not constitute a sale.

334
335 Section 2.12. Right to Mortgage. APCO and AEC each shall
335
336 have the right to create a mortgage lien or security interest
336
337 in its proportionate ownership interest in Plant Farley, or
337
338 any part thereof, to secure bonds or other obligations issued
338
339 or to be issued as part of a financing program, without the
339
340 approval of the other party.

341 ARTICLE III - OPERATING AGREEMENT

342
343
344 Section 3.01. Output. The Output of Plant Farley will
344
345 be the actual Capacity and Energy delivered to the transmission
345
346 system after station use and step-up transformer losses. AEC
346
347 shall have the right to its Ownership Share of the Output during
347
348 each hour. Should said Output be negative, then AEC shall
348
349 deliver its Ownership Share of the Plant Farley station use
349

350 requirement to the APCO transmission system. Delivery of said
350
351 Output to AEC will be in accordance with Section 3.02. APCO
351
352 shall keep AEC informed of the Output of Plant Farley on a
352
353 continuous basis so that AEC can account for it in AEC's hourly
353
354 dispatch. Should AEC desire, APCO shall furnish AEC a signal
354
355 of the continuous Output of Plant Farley for dispatch purposes.
355
356 Should this signal be requested by AEC, then the cost of
356
357 providing such signal will be borne by AEC.

357
358 Section 3.02. Delivery of Output. Delivery of Capacity
358
359 and Energy from Plant Farley shall be in accordance with the
359
360 Wheeling Agreement. Should APCO be unable to deliver AEC's
360
361 Ownership Share of Farley Output in accordance with the above,
361
362 resulting in the use of the power by APCO, then APCO will credit
362
363 the Energy to AEC during similar load hours to be agreed upon
363
364 by the parties.

364
365 Section 3.03. Payment of Cost of Operation.

365
366 (a) Funds. The total Cost of Operation of Plant Farley
366
367 as defined in Section 1.07 will be segregated into areas covered
367
368 by four Funds. They will be titled Operation and Maintenance
368
369 Fund, Fuel Fund, Capital Additions Fund, and Decommissioning
369
370 Fund. The total reimbursement of APCO for AEC's Ownership Share
370
371 of the Cost of Operation will be accomplished through the
371
372 payment of AEC's Ownership Share of Cost of Operation into these
372
373 respective Funds. This Section shall be subject to Section
373
374 5.05.

374
375 AEC shall have the right to pay any amount into any of these
375

376 Funds under protest. Any amount paid into any such Fund by AEC
376
377 will be subject to a final audit by AEC to determine the
377
378 justness and correctness thereof.

378
379 (b) Payment to Funds by AEC. Beginning with the month prior
379
380 to Closing and every month thereafter, APCO shall notify AEC
380
381 by the first of each month of the amount of expenditures
381
382 expected under each of the four Funds associated with Plant
382
383 Farley for the following month. On or before the tenth working
383
384 day of the following month (which is the subject month of said
384
385 estimate and notice), AEC will pay its Ownership Share of the
385
386 cost thus estimated into each appropriate Fund. It is
386
387 recognized that at least a portion of each payment is an
387
388 estimated amount subject to adjustment to a final correct amount
388
389 by APCO or audit. Such corrections shall be made promptly as
389
390 soon as actual costs are known by APCO. Any difference between
390
391 the estimated amount paid to the respective Fund by AEC and
391
392 any subsequent corrected amount shall be added to or credited
392
393 against, as the case may be, a subsequent monthly estimate.
393
394 Interest on any underpayment or overpayment by AEC will be
394
395 charged or credited, as the case may be, at the rate of prime
395
396 plus one percent simple annual interest. The prime rate for
396
397 any month shall be that listed on the Wall Street Journal on
397
398 the last day of the month of the previous month.

398
399 (c) Operation and Maintenance Fund. This Fund shall include
399
400 all costs normally associated with Operation and Maintenance
400
401 of Plant Farley, plus Administrative and General expenses
401

402 allocated to Plant Farley. It will include all costs associated
402
403 with insurance, including normal premiums, retroactive premiums,
403
404 payments of liabilities in excess of coverage, etc. Insurance
404
405 costs will be those directly associated with Plant Farley and
405
406 not allocated to it. Any fines or penalties associated with
406
407 Plant Farley determined to be properly shared by the parties
407
408 shall be charged to this Fund. No fuel-related costs will be
408
409 included in this Fund.

410 (d) Fuel Fund. This Fund shall include all costs associated
410
411 with Nuclear Fuel, including mining, enrichment, fabrication,
411
412 transportation, loading, interim storage, and permanent
412
413 disposal.

414 (e) Capital Additions Fund. This Fund shall include all
414
415 improvements associated with Plant Farley which are classified,
415
416 according to the Uniform System of Accounts, as additions to
416
417 Utility Plant. This Fund will include production, transmission,
417
418 and general plant facilities associated with Plant Farley.

419 (f) Decommissioning Fund. This Fund shall include all costs
419
420 associated with the retirement, entombment, or decommissioning
420
421 of Plant Farley, including costs to restore the site to an
421
422 acceptable condition after decommissioning.

423 Section 3.04. Outages. APCO agrees to notify AEC of all
423
424 outages and reductions in Output, giving as much notice as
424
425 possible whether such outages or reductions be for scheduled
425
426 maintenance, refueling, or forced outages. The purpose, time
426
427 the outage or reduction begins, and expected duration will be
427

428 included in any notice to the best accuracy possible.

428

429 Section 3.05. Fines and Penalties. Any fines or penalties
429
430 that might be assessed by NRC or others in connection with Plant
430
431 Farley will be included as a Cost of Operation and shared by
431
432 the parties based upon their respective Ownership Shares.
432
433 However, AEC shall not be required to pay for any portion of
433
434 any fines or penalties imposed as a result of some incident
434
435 or condition occurring prior to Closing which is specifically
435
436 identifiable as the cause of said fine or penalty.

436

437 Section 3.06. Default.

437

438 (a) Events of Default.

438

439 Class 1 Default - Any failure by AEC to pay its
439
440 proportionate share, based on its Ownership Share, into the
440
441 Operation and Maintenance Fund, the Fuel Fund, the Capital
441
442 Additions Fund, or the Decommissioning Fund shall be a Class
442
443 1 default. Such default shall not be deemed to have occurred
443
444 unless and until AEC has received proper projections and notice
444
445 of amounts required by APCO in accordance with Section 3.03(b),
445
446 and until 10 days have elapsed from the due date of said funds
446
447 and APCO has notified AEC of any delinquency in payment.

447

448

449 Class 2 Default - A Class 2 default shall be the failure of
449
450 either party to abide by any regulatory requirements, the
450
451 disclosure of either party of proprietary information, or any
451
452 delay in performance other than payment of money.

452

453

454 Class 3 Default - A Class 3 default shall be bankruptcy or any

454

455 written notice of inability to pay debts or impending filing
455
456 of bankruptcy or similar proceedings.

456
457 (b) Remedies for Default

457
458 Class 1 Default - The remedies for Class 1 defaults shall
458
459 be as follows: APCO may deny AEC the use of AEC's Ownership
459
460 Share of Output from Plant Farley until the default has been
460
461 cured. APCO may use AEC's Ownership Share of the Output or
461
462 sell it to a third party during the period of default. To the
462
463 extent, if any, that APCO utilizes or sells AEC's Ownership
463
464 Share of the Output it shall be valued at the greater of the
464
465 short-term power rates in the Interconnection Agreement or
465
466 revenue received from any sale. AEC shall pay interest at the
466
467 rate of prime plus one percent simple annual interest on any
467
468 amount in default. The prime rate for any month shall be that
468
469 listed in the Wall Street Journal on the last day of the month
469
470 of the previous month. AEC may cure any default by paying all
470
471 amounts in default including interest. The value or revenue
471
472 from the use or sale by APCO of AEC's Ownership Share of Plant
472
473 Farley Output will be credited to AEC and offset any amounts
473
474 owed under the default. Should the credit be greater than any
474
475 default amount, then the excess shall be promptly paid to AEC
475
476 by APCO.

476
477 If any Class 1 default is not cured by AEC within 120 days
477
478 after APCO has given AEC notice of delinquency pursuant to
478
479 Section 3.06(a), then APCO shall have the option to purchase
479
480 AEC's Ownership Share at the cost of AEC less depreciation,
480

481 less the amount owed under the default, plus credits to AEC
481
482 for APCO use or sale of AEC's Ownership Share of Plant Farley
482
483 Output.

483
484 Class 2 or 3 Default - Any party in Class 2 or 3 default
484
485 shall promptly correct or cure said default and reimburse the
485
486 other party for any actual costs incurred as a result of said
486
487 default including interest thereon at the above interest rate.

487
488

489 ARTICLE IV - NUCLEAR FUEL

489
490

491 Section 4.01. Nuclear Fuel. APCO shall have the authority
491
492 and shall use its best efforts to acquire and manage all Nuclear
492
493 Fuel for Plant Farley according to its sole discretion and
493
494 judgment, including, without limitation, reloading, spent
494
495 storage, reprocessing and waste disposal matters relating to
495
496 Nuclear Fuel. APCO shall also have the right to enter into
496
497 any arrangement, on its behalf and on behalf of AEC, for
497
498 obtaining Nuclear Fuel for Plant Farley which APCO, in its sole
498
499 discretion, shall deem desirable, and AEC agrees to cooperate
499
500 with APCO and, subject to all required approval of the REA,
500
501 to take all action required to consummate any such arrangements.
501
502 Each party shall have the right to mortgage, pledge or encumber
502
503 its investment in Nuclear Fuel for Plant Farley, without the
503
504 consent of the other party.

504
505

506 ARTICLE V - GENERAL CONDITIONS AND COVENANTS

506
507

507 OF THE PARTIES

507
508

509 Section 5.01. APCO Control as Agent. APCO shall have
509
510 authority as agent for AEC to make all decisions regarding Plant
510
511 Farley including, but not limited to, the operation and
511
512 maintenance, capital additions, fuel, fuel storage and disposal,
512
513 and retirement and decommissioning. APCO shall consider, but
513
514 shall have no obligation to act upon, any comments or
514
515 recommendations AEC might make in connection with Plant Farley.
515
516 AEC hereby appoints APCO as its agent to act for AEC in
516
517 connection with Plant Farley activities, and APCO hereby accepts
517
518 such appointment.

518
519 Section 5.02. No Adverse Distinction. In discharging its
519
520 duties and responsibilities under this Agreement, APCO shall
520
521 not, because of AEC's ownership interest in Plant Farley or
521
522 Nuclear Fuel, make any adverse distinction between the Nuclear
522
523 Fuel and Plant Farley and any other generating unit or
523
524 facilities in which APCO has an ownership interest, provided
524
525 nothing in this provision shall require APCO to perform in any
525
526 manner different from the manner it would have performed had
526
527 AEC not obtained an ownership interest in the Nuclear Fuel and
527
528 Plant Farley. In connection with any claim by AEC under this
528
529 provision, AEC shall have the burden of demonstrating that an
529
530 adverse distinction was made because of AEC's ownership
530
531 interest. Further, APCO shall use its best efforts to see that
531
532 no adverse distinction is made by the Southern Company and its
532
533 affiliates regarding Plant Farley and Nuclear Fuel due to AEC's
533
534 ownership interest.
534

535 Section 5.03. Consequential Damages. In no event shall
535
536 either party be liable to the other party for any indirect,
536
537 special, incidental or consequential damages associated with
537
538 any claim arising out of the sale or operation of Plant Farley
538
539 whether based on contract, tort (including negligence), patent,
539
540 trademark or service mark or otherwise. AEC shall indemnify
540
541 and hold APCO harmless from and against any claim by, or
541
542 liability of, the AEC Members or member-consumers of AEC Members
542
543 for any such claim, loss or damage arising out of any
543
544 performance or failure to perform under this Agreement. APCO
544
545 shall indemnify and hold AEC harmless from and against any claim
545
546 by, or liability of, APCO's customers for any such claim, loss
546
547 or damage arising out of any performance or failure to perform
547
548 under this Agreement.

548
549 Section 5.04. Taxes. To the extent possible, each party
549
550 shall separately report, file returns with respect to, and be
550
551 responsible for and pay, all ad valorem, franchise, business
551
552 or other taxes and fees, except payroll and sales and use taxes,
552
553 arising out of each party's Ownership Share of Plant Farley.
553
554 However, to the extent that such taxes or fees may be levied
554
555 on or assessed against the total plant, or its operation, or
555
556 on the parties in such a manner so as to make impossible the
556
557 carrying out of the foregoing sentence, or upon mutual agreement
557
558 of the parties, then such taxes or fees shall be shared pro
558
559 rata based upon the respective Ownership Shares of the parties.

559
560 Section 5.05. Sharing of Costs. From the Closing date
560

561 forward, all costs of Plant Farley, unless otherwise
561
562 specifically noted in this Agreement, will be shared in
562
563 proportion to the Ownership Shares of the parties. These costs
563
564 will include, but not be limited to, operation and maintenance,
564
565 administrative and general expenses, fuel expenses, capital
565
566 additions, fuel disposal cost, and decommissioning.

567 Administrative and general expenses properly incurred or
567
568 allocated to Plant Farley shall be shared by the parties in
568
569 proportion to their Ownership Shares. However, these
569
570 administrative and general costs assigned to Plant Farley will
570
571 be deducted from total administrative and general costs prior
571
572 to allocating remaining administrative and general costs to
572
573 any other cost of service affecting AEC or its Members.

573
574 AEC shall have no responsibility for storage or disposal
574
575 costs associated with Nuclear Fuel burned prior to Closing,
575
576 but will only incur fuel storage and disposal costs with respect
576
577 to its Ownership Share of fuel burned after Closing.

577
578 Should any cost incurred by APCO in connection with Plant
578
579 Farley be such that it is only for the benefit of APCO, such
579
580 as replacement power cost insurance that would be paid to APCO
580
581 in case of a prolonged outage, but would result in no payment
581
582 or benefits to AEC, then such cost shall be borne totally by
582
583 APCO and shall not be shared by the parties in accordance with
583
584 the Ownership Shares of each.

584
585 AEC's decommissioning cost shall be its Ownership Share
585
586 of total decommissioning cost multiplied by a factor equal to
586

587 the number of years of ownership by AEC divided by the number
587
588 of years of commercial operation of Plant Farley.

588
589 Section 5.06. Liabilities of the Parties. Subject to
589
590 Section 5.02, but not withstanding any other provision of this
590
591 Agreement, AEC shall not be entitled to recover from APCO, its
591
592 agents, employees or insurers any damages resulting from error
592
593 or delay in the design, engineering, procurement, installation,
593
594 construction, operation, modification or decommissioning of
594
595 Plant Farley, or for any damage thereto, any curtailment of
595
596 power or any damages of any kind, including consequential
596
597 damages, occurring during the course of design, engineering,
597
598 procurement, installation, construction, operation, maintenance,
598
599 shut-down, demolition, decommissioning or disposal of Plant
599
600 Farley, or otherwise arising out of the performance of this
600
601 Agreement unless such loss, damage or expense results from gross
601
602 negligence or the willful, wanton, or reckless misconduct of
602
603 APCO. APCO shall not be liable to AEC for damages or otherwise
603
604 for the failure of any machinery or equipment in Plant Farley,
604
605 or any portion thereof, for any alleged failure of APCO to
605
606 operate Plant Farley properly, or for any interruption,
606
607 curtailment or diminution of the production of power and energy,
607
608 or of service at Plant Farley resulting from such failure of
608
609 equipment or failure of operations unless such loss, damage
609
610 or expense results from gross negligence or the willful, wanton,
610
611 or reckless misconduct of APCO.

611
612 The liability of APCO and AEC to third parties whether
612

613 arising in contract, tort (including negligence and strict
613 liability) or otherwise, including but not limited to liability
614 arising out of any contract or the breach thereof, for loss
615 of or damage to property and for personal injury, including
616 death, including liabilities for claims, rights, demands and
617 causes of action existing as of the Closing Date (whether known
618 or unknown), arising out of or in any matter connected with
619 the procurement, construction, operation, maintenance,
620 modification, or decommissioning of Plant Farley shall be shared,
621 satisfied, and discharged in proportion to the parties'
622 respective Ownership Shares, unless such liability was due to
623 gross negligence or the willful, wanton, or reckless misconduct
624 of APCO.
625

626 Whether to AEC or a third party, APCO shall individually
627 bear, and shall indemnify AEC against, all costs, losses,
628 liabilities and expenses resulting from its own gross negligence
629 or willful, wanton, or reckless misconduct.
629

630 Section 5.07. Confidentiality. During the term of this
631 Agreement, it may become necessary or desirable from time to
632 time for one party to provide to the other party information
633 which is either confidential or proprietary. The party desiring
634 to protect any such information (the labeling party) may label
635 such information as either confidential or proprietary and
636 thereafter the other party will not reproduce, copy, use or
637 disclose (except when required by governmental authorities) any
638 such information in whole or in part for any purpose without
638

639 the written consent of the labeling party. In disclosing
639
640 confidential or proprietary information to governmental
640
641 authorities, the disclosing party shall cooperate with the
641
642 labeling party in minimizing the amount of such information
642
643 furnished, to the extent compatible with the disclosing party's
643
644 legal obligations. At the specific request of the labeling
644
645 party, the disclosing party will endeavor to secure the
645
646 agreement of such governmental authorities to maintain specified
646
647 portions of such information in confidence.

648 Section 5.08. Access and Observation. AEC may have a
648
649 permanent Site Representative for observing, in its interest,
649
650 all activities at Plant Farley, including but not limited to,
650
651 the operation, maintenance, construction of additions, fueling,
651
652 decommissioning and the costs thereof at Plant Farley. The
652
653 Site Representative shall have complete access to Plant Farley.
653
654 The Site Representative may have additional support personnel
654
655 located on the plant site, but such support personnel shall
655
656 not be authorized to represent AEC, nor have access to the plant
656
657 except as authorized by APCO's Plant Manager who shall not
657
658 unreasonably deny such access. The Site Representative shall
658
659 cooperate with APCO in order to minimize interference with plant
659
660 activities and shall comply with all applicable regulations
660
661 of any governmental agency and those which APCO imposes in the
661
662 operation of the plant. APCO shall provide an office and
662
663 reasonable facilities and assistance for the Site Representative
663
664 and support personnel as may be required for them to carry out
664

665 their work. The Site Representative and support personnel shall
665
666 be employed and paid by AEC. Neither the Site Representative
666
667 nor any support personnel shall have the right to supervise
667
668 or issue orders to APCO personnel.
668

669 Upon reasonable prior notice, other authorized
669
670 representatives of AEC shall have the right to visit Plant
670
671 Farley. Visitors shall be required to comply with all
671
672 requirements which any governmental agency or APCO imposes for
672
673 safety or security reasons.
673

674 AEC and APCO recognize that it may be beneficial to have
674
675 members of the public visit Plant Farley. In order to minimize
675
676 any interference with the operation of the plant, APCO will
676
677 cooperate with AEC in arranging such visits, but APCO shall
677
678 have the right to exclude such visitors or reschedule such
678
679 visits.
679

680 Section 5.09. Examination of Records - Audits. APCO agrees
680
681 that AEC shall have the right, at AEC's expense, to examine
681
682 all contracts, records, data and accounts associated with Plant
682
683 Farley. These records will include but not be limited to all
683
684 records of construction, contracts, operation and maintenance
684
685 records, budgets, projections, capital improvement budgets and
685
686 costs, fuel, decommissioning budgets and costs, etc.
686

687 Section 5.10. Data Provided to AEC. APCO will provide
687
688 or make available to AEC, on a timely basis, all accounting
688
689 records, and financial and operating statistics and data
689
690 associated with Plant Farley that are normally prepared by APCO
690

691 and reported to EEI, FERC, the Alabama Public Service
691 Commission, NRC, or other similar agencies or bodies, plus data
692 prepared for APCO internal use.
693

694 Section 5.11. Budgets and Cost Projections. On a continuing
694 basis, APCO will provide to AEC, as soon as available to APCO
695 on a preliminary and final or approved basis, all budgets and
696 cost projections prepared associated with Plant Farley, both
697 short-term and long-term, including but not limited to,
698 operation and maintenance, fuel, capital additions, and
699 retirement and decommissioning. This information shall be
700 provided to AEC prior to the start of each calendar year and
701 shall be broken down for each month for at least the following
702 two calendar years. A projection of these costs shall be
703 provided to AEC prior to each calendar year for at least each
704 of the following four years on an annual basis. Should
705 extraordinary events occur during the year requiring
706 substantially higher or lower than budgeted amounts to be
707 required, then APCO shall promptly revise said budgets and
708 projections and promptly make them available to AEC.
709

710 Section 5.12. Termination of Wholesale Power Agreements.
710 APCO agrees to waive the two year notice provision in the APCO
711 wholesale power supply agreements with AEC distribution
712 cooperative members in connection with load to be assumed by
713 AEC at the Closing. The load to be terminated and assumed by
714 AEC under this section shall be that contained in page 2 of
715 Mr. Lowman's letter to Mr. Crawford dated May 27, 1983 attached
716

717 hereto as Exhibit _____. APCO agrees that waiver of this notice
717
718 constitutes proper notice for AEC to deliver capacity and energy
718
719 to these delivery points in accordance with the Wheeling
719
720 Agreement. AEC agrees that the waiver of the two-year notice
720
721 requirement in connection with the sale of an Ownership Share
721
722 interest in Plant Farley does not set any precedent involving
722
723 future notice requirements contained in the wholesale tariff.
723

724 Section 5.13. Deficit Power. APCO agrees that any deficit
724
725 power requirements of AEC that might occur in the future will
725
726 be met, at AEC's option, by APCO selling firm production
726
727 capacity and energy to AEC at rates based upon the average
727
728 production capacity and average energy costs of APCO. Rates
728
729 for such service shall be filed by APCO with FERC with AEC
729
730 having normal rights of any intervenor to oppose any provisions
730
731 or principles it deems inappropriate.
731

732 The price per firm kilowatt shall be determined by including
732
733 AEC's deficit in the firm load of APCO. AEC's deficit capacity
733
734 shall be determined as follows:

- 734
735 (1) Determine AEC's Generating Capability in accordance
735
736 with Section 5.03 of the Interconnection Agreement.
736
737 (2) Divide the Generating Capability in (1) by 1.00 plus
737
738 AEC's Reserve Percentage requirement determined in
738
739 accordance with Section 5.04 of the Interconnection
739
740 Agreement.
740
741 (3) Determine AEC's load at the time of the APCO annual
741
742 integrated peak hour load and subtract from AEC's load
742

743 at that hour any SEPA allocations directly assigned
743 to AEC Off-System Members served under the Wheeling
744 Agreement.
744
745
745
746 (4) When (3) exceeds (2), the difference shall be AEC's
746 firm Purchase Capacity requirement in accordance with
747 Section 5.05 of the Interconnection Agreement.
747
748
748
749 Section 5.14. Buy American. The parties covenant that
749
750 in the performance of this Agreement (1) at least AEC's
750 Ownership Share in the total cost of Plant Farley, including
751 the total of all of the unmanufactured articles, materials and
751 supplies used or to be used in the construction of or otherwise
752 made a part of Plant Farley shall have been mined or produced
752
753 in the United States and (2) at least AEC's Ownership Share
753
754 in the total cost of Plant Farley, including the total cost
754
755 of all of the manufactured articles, materials, and supplies
755
756 used or to be used in the construction of or otherwise made
756
757 a part of Plant Farley shall have been manufactured in the
757
758 United States substantially all from articles, materials, or
758
759 supplies mined, produced, or manufactured, as the case may be,
759
760 in the United States. If any article, material, or supplies
760
761 are partially mined, produced, or manufactured in the United
761
762 States (said part being hereinafter called the "American Made
762
763 Portion") and partially mined, produced, or manufactured
763
764 somewhere other than in the United States, then only the cost
764
765 of the American Made Portion shall be used in determining
765
766 whether the requirements of the preceding sentence have been
766
767
767
768
768

769 satisfied. At the Closing and from time to time thereafter
769
770 when requested by AEC or the REA Administrator, the parties
770
771 shall supply the REA Administrator or the party so requesting
771
772 with information and documentation demonstrating that Plant
772
773 Farley were constructed in accordance with the requirements
773
774 of this Section.

774
775 Section 5.15. Environment. APCO shall construct and
775
776 operate Plant Farley consistent with any Environmental Impact
776
777 Statement issued with respect to the Farley Plant pursuant to
777
778 the National Environmental Policy Act, and subject to such
778
779 changes as have been properly approved, provided REA is given
779
780 notice prior to such changes occurring subsequent to the
780
781 Closing.

781
782 Section 5.16. Safety. In the acquisition, construction,
782
783 operation and maintenance of Plant Farley pursuant to this
783
784 Agreement, the parties shall at all times take all reasonable
784
785 precautions for the safety of employees at Plant Farley and
785
786 of the public at Plant Farley, and shall comply with all
786
787 applicable provisions of federal, state and county safety laws
787
788 and building and construction codes, including without
788
789 limitation, all regulations of the Occupational Safety and Health
789
790 Administration.

790
791 Section 5.17. Historic Places. The parties shall not,
791
792 without approval in writing by the REA Administrator, use any
792
793 portion of the funds made available to APCO by AEC pursuant
793
794 to the terms of this Agreement to construct any facilities which
794

795 will involve any district, site, building, structure or object
795
796 which is included in the National Register of Historic Places,
796
797 maintained by the Secretary of the Interior pursuant to the
797
798 Historic Sites Act of 1935 and the National Historic
798
799 Preservation Act.

799
800 Section 5.18. Flood Insurance Act. Notwithstanding
800
801 anything contained in this Agreement, neither party shall be
801
802 under any obligation to advance any funds to the other party
802
803 to finance the construction or acquisition of any building in
803
804 any area heretofore identified by the Secretary of Housing and
804
805 Urban Development, pursuant to the Flood Disaster Protection
805
806 Act of 1973 (the "Flood Insurance Act") or any rules,
806
807 regulations or orders issued to implement the Flood Insurance
807
808 Act ("Rules"), as an area having special flood hazards, or to
808
809 finance any Facilities or materials to be located in any such
809
810 building, or in any building owned or occupied by APCO or AEC
810
811 located in such flood hazard area unless and until there have
811
812 been compliance with all other conditions of this Agreement
812
813 which are precedent to such advances, and the REA Administrator
813
814 has determined that (i) the community in which such area is
814
815 located is then participating in the national flood insurance
815
816 program, as required by the Flood Insurance Act and any Rules
816
817 and (ii) APCO and AEC have obtained flood insurance coverage
817
818 with respect to such building and contents as may then be
818
819 required pursuant to the Flood Insurance Act and any Rules.

819
820 Section 5.19. Public Officials Not to Benefit. No member
820

821 of or delegate to the Congress of the United States shall be
821
822 admitted to any share or part of this Agreement or to any
822
823 benefit to arise herefrom other than the receiving of electric
823
824 service on the same terms accorded other consumers and other
824
825 than benefits, if any such person is an APCO shareholder, that
825
826 may accrue to APCO shareholders generally.

826
827 Section 5.20. Kickbacks. In the acquisition, construction
827
828 and completion of Facilities pursuant to this Agreement, APCO
828
829 shall comply with all applicable statutes, rules and regulations
829
830 pertaining to the so-called "Kickback" Statute (48 Stat 948,
830
831 18 U.S.C. Sect. 874 and 40 U.S.C. Sect. 276C). APCO
831
832 acknowledges that it is familiar with the Rural Electrification
832
833 Act of 1936, as amended, the so-called "Kickback" Statute (48
833
834 Stat. 948), and regulations issued pursuant thereto, and 18
834
835 U.S.C. 287, 1001, as amended.

835
836 Section 5.21. Equal Opportunity Clause. During the term
836
837 of this Agreement, APCO agrees as follows:

837
838 1. APCO will not discriminate against any employee or
838
839 applicant for employment because of race, color, religion, sex,
839
840 age or national origin. APCO will take affirmative action to
840
841 ensure that applicants are employed, and that employees are
841
842 treated during employment without regard to their race, color,
842
843 religion, sex, age or national origin. Such action shall
843
844 include, but not be limited to the following: Employment,
844
845 upgrading, demotion or transfer; recruitment or recruitment
845
846 advertising; layoff or termination; rates of pay or other forms
846

847 of compensation; and selection for training, including
847
848 apprenticeship. APCO agrees to post in conspicuous places,
848
849 available to employees and applicants for employment, notices
849
850 to be provided setting forth the provisions of this Equal
850
851 Opportunity Clause.

851
852 2. APCO will, in all solicitations or advertisements for
852
853 employees placed by or on behalf of APCO, state that all
853
854 qualified applicants will receive consideration for employment
854
855 without regard to color, religion, sex, age or national origin.
855

856 3. APCO will send to each labor union or representative
856
857 of workers with which it has a collective bargaining agreement
857
858 or other contract of understanding, a notice to be provided
858
859 advising that said labor union or workers' representatives of
859
860 APCO's commitments under this Section, and shall post copies
860
861 of the notice in conspicuous places available to employees and
861
862 applicants for employment.

862
863 4. APCO will comply with all provisions of Executive Order
863
864 11246 of September 24, 1965, and of the rules, regulations and
864
865 relevant orders of the Secretary of Labor.

865
866 5. APCO will furnish all information and reports required
866
867 by Executive Order 11246 of September 24, 1965, and by rules,
867
868 regulations and relevant orders of the Secretary of Labor, or
868
869 pursuant thereto, and will permit access to its books, records
869
870 and accounts by the administering agency and the Secretary of
870
871 Labor for purposes of investigation to ascertain compliance
871
872 with such rules, regulations and orders.
872

873 6. In the event of APCO's noncompliance with this Equal
873
874 Opportunity Clause of this Agreement or with any of the said
874
875 rules, regulations or orders, APCO may be declared ineligible
875
876 for further government contracts or federally assisted
876
877 construction contracts in accordance with procedures authorized
877
878 in Executive Order 11246 of September 24, 1965, and such other
878
879 sanctions may be imposed and remedies invoked as provided in
879
880 Executive Order 11246 of September 24, 1965, or by rule,
880
881 regulation or order of the Secretary of Labor, or as otherwise
881
882 provided by law.

882
883 7. APCO will include the words "During the performance
883
884 of this contract, the contractor agrees as follows:" followed
884
885 by the provisions of paragraphs (1) through (7) in every
885
886 subcontract or purchase order (with the word "APCO" changed to
886
887 the word "contractor") unless exempted by the rules, regulations
887
888 or orders of the Secretary of Labor issued pursuant to Section
888
889 204 of Executive Order 11246 of September 24, 1965, so that
889
890 such provisions will be binding upon such action with respect
890
891 to any subcontract or purchase order as the administering agency
891
892 may direct as a means of enforcing such provisions, including
892
893 sanctions for noncompliance; provided, however, that in the
893
894 event APCO becomes involved in, or is threatened with litigation
894
895 with a subcontractor or vendor as a result of such direction
895
896 by the administering agency, APCO may request the United States
896
897 to enter into such litigation to protect the interests of the
897
898 United States.
898

899 Section 5.22. Nonsegregated Facilities. APCO certifies
899
900 that it does not maintain or provide for its employees any
900
901 segregated facilities at any of its establishments, and that
901
902 it does not permit its employees to perform their services at
902
903 any location, under its control, where segregated facilities
903
904 are maintained. APCO certifies further that it will not
904
905 maintain or provide for its employees any segregated facilities
905
906 at any of its establishments, and that it will not permit its
906
907 employees to perform their services at any location, under its
907
908 control, where segregated facilities are maintained. APCO
908
909 agrees that a breach of this certification is a violation of
909
910 the Equal Opportunity Clause in this Agreement. As used in
910
911 this certification, the term "segregated facilities" means any
911
912 waiting rooms, work areas, restrooms and washrooms, restaurants
912
913 and other eating areas, timeclocks, locker rooms and other
913
914 storage or dressing areas, parking lots, drinking fountains,
914
915 recreation or entertainment area, transportation, and housing
915
916 facilities provided for employees which are segregated by
916
917 explicit directive or are in fact segregated on the basis of
917
918 race, color, religion, or national origin, because of habit,
918
919 local custom, or otherwise. APCO agrees that (except where
919
920 it has obtained identical certifications from proposed
920
921 subcontractors for specific time periods) it will obtain
921
922 identical certifications from proposed subcontractors prior to
922
923 the award of subcontracts exceeding \$10,000 which are not exempt
923
924 from the provisions of the Equal Opportunity Clause, and that
924

925 it will retain such certification in its files.

925

926 Section 5.23. Disclosure. At least sixty days prior to
926 Closing and again at Closing, APCO shall provide to AEC a list
927 of any actual or potential litigation, defects in construction,
928 major problems and controversies known to APCO's management
929 which in its judgment could affect the operation, maintenance,
930 capital additions, or fueling of Plant Farley, or any portion
931 thereof, or the rights and obligations of AEC. For purposes
932 of this Section, APCO's management shall include, and be limited
933 to, the Plant Manager of Plant Farley, the Chief Engineers in
934 APCO and Southern Services Design Engineering Department, and
935 all officers of APCO.

936

937 Section 5.24. Uncontrollable Forces. Neither party shall
937 be considered to be in default or liable to the other party
938 in performance of any of the obligations hereunder, other than
939 the obligation of either party to make payments under this
940 Agreement, if the failure of performance shall be due to
941 uncontrollable forces. The term "uncontrollable forces" shall
942 mean any cause beyond the control of the party affected and
943 which, by the exercise of reasonable diligence, the party is
944 unable to overcome, and shall include but not be limited to
945 an act of God, fire, flood, explosion, strike, sabotage, an
946 act of the public enemy, civil or military authority, including
947 court orders, injunctions, and orders of government agencies
948 with proper jurisdiction prohibiting acts necessary to the
949 performance hereunder or permitting any such act only subject
950

951 to unreasonable conditions, insurrection or riot, an act of
951
952 the elements, failure of equipment or inability to obtain or
952
953 ship materials or equipment because of the effect of similar
953
954 clauses on suppliers or carriers. Nothing contained herein
954
955 shall be construed so as to require settlement of any strike
955
956 or labor dispute in which either party may be involved. A party
956
957 rendered unable to fulfill any obligation by reason of any cause
957
958 shall exercise due diligence to remove such inability with all
958
959 reasonable dispatch.

960 Section 5.25. Severability. If any provision of this
960
961 Agreement is held invalid or unenforceable by any governmental
961
962 authority or court having jurisdiction over the subject matter
962
963 hereof, the remaining provisions shall remain in full force
963
964 and effect according to their terms and the parties shall
964
965 renegotiate in good faith any provisions held invalid or
965
966 unenforceable in order to reach agreement as to replacement of
966
967 or modifications to such provision.

968 In this connection, the parties recognize that they have
968
969 bargained for economic benefits to each party which are closely
969
970 interrelated and which produce an overall result which is
970
971 considered by the parties to be just and reasonable. In
971
972 recognition thereof, if any provision of this Agreement is held
972
973 invalid, and such holding alters the economic benefits flowing
973
974 to any party, the parties' renegotiation shall attempt to
974
975 restore the overall economic benefits to each party to the levels
975
976 provided for in the Agreement as originally executed.
976

977 Section 5.26. Commitment for Financing. AEC shall obtain
977
978 on or before the Closing, a commitment notice of a Federal
978
979 Financing Bank loan with an REA guarantee, or other financing
979
980 source, providing for not less than \$_____ million for use
980
981 in financing AEC's undivided ownership interest in Plant Farley
981
982 and Nuclear Fuel.

982
983 Section 5.27. Regulatory Approvals. APCO and AEC shall
983
984 mutually cooperate and use their best efforts to obtain as
984
985 quickly as possible all requisite government, regulatory, vendor
985
986 and other approvals of the consummation of the transactions
986
987 contemplated hereby. These approvals shall include, but not
987
988 be limited to, any proceeding before the Nuclear Regulatory
988
989 Commission, Rural Electrification Administration procedures
989
990 involving loan or other approvals, and any Alabama requirements,
990
991 including Department of Finance approval.

991
992 Section 5.28. Survival. The agreements, covenants,
992
993 representations and warranties contained in this Agreement shall
993
994 survive the Closing.

994
995 Section 5.29. Further Assurances. From time to time after
995
996 the Closing APCO and AEC will execute such instruments of
996
997 conveyance and other documents, upon the request of the other,
997
998 as may be necessary or appropriate to carry out the intent of
998
999 this Agreement.

999
1000 Section 5.30. Governing Law. The validity, interpretation
1000
1001 and performance of this Agreement and each of its provisions
1001
1002 shall be governed by the laws of the State of Alabama except
1002

1003 to the extent preempted by Federal law.
1003
1004 Section 5.31. Notice. Any notice, request, consent or
1004
1005 other communication permitted or required by this Agreement
1005
1006 shall be in writing and shall be deemed given when deposited
1006
1007 in the United States mail, Certified Mail prepaid, and if given
1007
1008 to APCO shall be addressed to:

1008
1012 Alabama Power Company
1013 600 North 18th Street
1014 P. O. Box 2641
1015 Birmingham, Alabama 35291
1016

1017 and if given to AEC shall be addressed to:

1018
1019 Alabama Electric Cooperative, Inc.
1020 P. O. Box 550
1021 Andalusia, Alabama 36420
1022 Attention: General Manager
1023

1027 unless a different officer or address shall have been designated
1027
1028 by the respective party by notice in writing.

1029 Section 5.32. Headings Not to Affect Meaning. The
1029
1030 descriptive headings of the various Sections and Articles of
1030
1031 this Agreement have been inserted for convenience of reference
1031
1032 only and shall in no way modify or restrict any of the terms
1032
1033 and provisions hereof.

1034 Section 5.33. No Partnership. Notwithstanding any
1034
1035 provision of this Agreement, APCO and AEC do not intend to create
1035
1036 hereby any joint venture, partnership, association taxable as
1036
1037 a corporation, or other entity for the conduct of any business
1037
1038 for profit. All obligations of the parties arising under this
1038
1039 Agreement are several and not joint. APCO and AEC agree that
1039
1040 they do not intend to create a partnership under the Alabama
1040

1041 Partnership Act or any other statute of the State of Alabama
1041
1042 or of any other jurisdiction.

1042
1043 Section 5.34. Time of Essence. Time is of the essence
1043
1044 with respect to this Agreement.

1044
1045 Section 5.35. Amendments. This Agreement may be amended
1045
1046 by and only by a written instrument duly executed by each of
1046
1047 the parties hereto.

1047
1048 Section 5.36. Successors and Assigns. This Agreement shall
1048
1049 inure to the benefit of and be binding upon APCO and AEC and
1049
1050 their respective successors and assigns, and, insofar as is
1050
1051 permitted by law, on any receiver or trustee in bankruptcy,
1051
1052 reorganization or receivership of either party. Nothing in
1052
1053 this Agreement, expressed or implied, is intended to confer
1053
1054 upon any other person any rights or remedies hereunder, except
1054
1055 as specifically provided herein.

1055
1056 Section 5.37. Counterparts. This Agreement may be executed
1056
1057 simultaneously in two or more counterparts, each of which shall
1057
1058 be deemed an original, but all of which together shall
1058
1059 constitute one and the same instrument.

1059
1060 Section 5.38. License Conditions. The NRC Licenses
1060
1061 governing Plant Farley contain antitrust conditions. This
1061
1062 Agreement is entered into by the parties in implementation of
1062
1063 and is to be construed within the parameters of such conditions
1063
1064 and ALAB-646 and nothing contained herein shall be in violation
1064
1065 thereof.

1065
1066 Section 5.39. REA Approval. This Agreement shall not be
1066

1067 in force and effect until approved by the Administrator of the
1067
1068 REA.

1068
1069

1070
1070
1071

ARTICLE VI - TERM AND TERMINATION

1072 Section 6.01. Termination. This Agreement shall terminate
1072
1073 at the later of the following: (1) at the expiration of the
1073
1074 term of the operating licenses for Plant Farley Unit Nos. 1
1074
1075 and 2 including any renewal or extension of either such license,
1075
1076 or (2) at such time as both Plant Farley Unit Nos. 1 and 2 are
1076
1077 retired from service, decommissioned and all requirements of
1077
1078 Federal, state or local law relating to the safe deactivation
1078
1079 of such units have been met.

1080 Section 6.02. Retirement Costs. The capital costs
1080
1081 associated with retirement of Plant Farley Unit Nos. 1 and 2,
1081
1082 including decommissioning, security, maintenance, monitoring,
1082
1083 razing of structures and disposing or storing of debris and
1083
1084 spent Nuclear Fuel, and the cost of fulfilling all governmental
1084
1085 requirements for safe deactivation of Plant Farley Unit Nos.
1085
1086 1 and 2 shall be deemed a Cost of Operation and be borne by
1086
1087 the parties in proportion to their respective Ownership Shares
1087
1088 adjusted in accordance with Section 5.05.
1088
1089 Payments for these costs shall be made in accordance with the
1089
1090 provisions of Article III, Section 3.03.

1090
1091

1092 IN WITNESS WHEREOF, the undersigned parties hereto have
1092
1093 duly executed this Agreement in _____, Alabama as of
1093
1094 the date first above written.

1094

