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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2012-CP-04-02770
Appellate Case No.: 2014-002488

West Anderson Water District, ...Appellant,

v.

City of Anderson, South Carolina, ...Respondent.

RECORD ON APPEAL

VOLUME III of III (Pages 949-1231)

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Execution Copy

ASSET SALE AGREEMENT

by and between

DUKE ENERGY CORPORATION

and

THE CITY OF ANDERSON

Dated as of February 20, 2002

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Exhibit A	Retail Assets
Exhibit B	Opinion of Counsel to Buyer
Exhibit C	Opinion of Counsel to Seller
Exhibit D	Right of Way Agreement
Exhibit E	Special Warranty Deeds
Exhibit F	Assignment of Easements and Rights of Way
Exhibit G	Taps to be Sold
Exhibit H	Operating Agreement

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ASSET SALE AGREEMENT

THIS ASSET SALE AGREEMENT (this "Agreement"), dated as of the 20th day of February, 2002, is between Duke Energy Corporation, a North Carolina corporation (the "Seller"), and The City of Anderson, an incorporated city in the State of South Carolina (the "Buyer").

BACKGROUND STATEMENT

Pursuant to that certain Asset Purchase Agreement dated as of February 14, 2000, by and between Anderson County Joint Municipal Water System (the "Joint System") (which assumed, with certain exceptions, the obligations thereunder of the members of the Joint System) and the Seller, as amended by the First Amendment to Asset Purchase Agreement dated as of August 1, 2001, and the Second Amendment to Asset Purchase Agreement, dated as of the date hereof (as the same may be further amended, modified, restated or supplemented from time to time, the "Joint System Agreement"), the Joint System agreed to purchase from the Seller, and the Seller agreed to sell to the Joint System, the Seller's water system in Anderson County, South Carolina, (the "Duke Water System") through a purchase and sale of substantially all of the system's assets. The system's assets include the assets that are described on Exhibit A attached hereto (the "Retail Assets"). The Buyer desires to purchase the Retail Assets directly from the Seller upon the terms and subject to the conditions contained herein, and the Joint System desires that the Seller sell the Retail Assets directly to the Buyer.

STATEMENT OF AGREEMENT

In consideration of the mutual representations, warranties, covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.1 Capitalized Terms. As used in this Agreement, the following terms have the following meanings:

"Accounts Receivable" means any and all amounts due and owing to the Seller arising out of the Duke Water System, as the term "accounts receivable" is understood under GAAP, except for accounts receivable owing by Upstate Heater Utilities, Inc. and the following customers of the Duke Water System: Big Creek Water and Sewage District, Broadway Water and Sewage District, Hammond Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, West Anderson Water District, City of Clemson, Clemson University, Homeland Park Water and Sewage District, Town of Williamston and Town of Pendleton. The term "Accounts Receivable" shall include the value of all unbilled

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water service provided as of the relevant date of determination (except for service provided to the entities specifically excluded above) regardless of whether such value would be considered accounts receivable under GAAP.

"Affiliate" means, with reference to a Person, any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with the specified Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Agreement" has the meaning given to it in the Introduction to this Agreement.

"Assumed Liabilities" has the meaning given to it in Section 2.2(a).

"Base Purchase Price" has the meaning given to it in Section 3.1.

"Business Day" means a day other than a Saturday, Sunday or day on which commercial banks in Charlotte, North Carolina, are generally closed for business.

"Buyer" has the meaning given to it in the Introduction to this Agreement.

"Buyer Claims" has the meaning given to it in Section 9.2(c).

"Buyer Damages" has the meaning given to it in Section 9.2(a).

"Buyer Indemnitees" has the meaning given to it in Section 9.2(a).

"Closing" has the meaning given to it in Section 4.1

"Closing Date" has the meaning given to it in Section 4.2.

"Code" means the Internal Revenue Code of 1986, as amended, and any successor statute thereto, together with the regulations thereunder, in each case as in effect from time to time.

"Contract" means any legally binding obligation or agreement to which the Seller is a party that relates exclusively to the Retail Business; whether or not reduced to writing, and specifically including without limitation any note, bond, mortgage, lease of real or personal property, license and other instrument, but not including Permits.

"Deposit" has the meaning given to it in Section 3.3.

"Distribution System Easements and Rights of Way" means all easements and rights of way that are vested in the Seller and that are used exclusively in the Retail Business in connection with the distribution of water to customers of the Retail Business.

"Duke Water System" has the meaning given to it in the Background Statement.

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"Effective Time" has the meaning given to it in Section 4.3.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 26019 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. §§ 1251 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, et seq.; as any of the above statutes have been amended as of the date hereof, all rules and regulations promulgated pursuant to any of the above statutes, and any other foreign, federal, state or local law, statute, ordinance, rule or regulation governing environmental matters, as the same have been amended as of the date hereof.

"Estimated Purchase Price" has the meaning given to it in Section 3.2.

"Excluded Contract" means any Contract as to which the Seller and the Buyer, after exercising commercially reasonable efforts, have failed to obtain all required third-party consents to effect its assignment to the Buyer.

"Final Purchase Price" has the meaning given to it in Section 3.1.

"Financial Statements" means (i) the unaudited pro forma historical income statement information of the Duke Water System for the fiscal years ended December 31, 1998 and 1997, prepared as if the Duke Water System were owned and operated as a single business entity during such period, (ii) an unaudited pro forma historical schedule of assets and liabilities of the Duke Water System in aggregate with the Seller's Rutherford County, North Carolina, water system as of December 31, 1998 and 1997, prepared as if the Duke Water System and the Seller's Rutherford County, North Carolina, water system were owned and operated together as a single business entity as of such dates, and (iii) a schedule of assets and liabilities of the Duke Water System as of September 30, 1999.

"GAAP" or "generally accepted accounting principles" means generally accepted accounting principles as recognized by the American Institute of Certified Public Accountants, as in effect from time to time, consistently applied and maintained on a consistent basis for the Seller throughout the period indicated and consistent with the Seller's prior financial practices.

"Governmental Authority" means any nation, province, state or other political subdivision thereof, and any agency, natural person or other entity exercising executive, legislative, regulatory or administrative functions of or pertaining to government.

"Hazardous Material" means any substance or material meeting any one or more of the following criteria: (a) it is or contains a substance designated as a hazardous waste, hazardous substance, hazardous material, pollutant, contaminant or toxic substance under any Environmental Law; (b) its presence at some quantity requires investigation, notification or remediation under any Environmental Law; or (c) it contains, without limiting the foregoing,

asbestos, polychlorinated biphenyls, petroleum hydrocarbons, petroleum derived substances or waste, crude oil or any fraction thereof, nuclear fuel, natural gas or synthetic gas.

"Health Agency" means any state department of public health or department of health or similar state regulatory body or any federal or state regulatory body having jurisdiction over environmental protection or environmental conservation or similar matters.

"Indemnification Threshold" means \$160,000.

"Intellectual Property" means all patents, copyrights, trademarks, service marks, trade secrets, know-how, and computer software programs of the Seller used exclusively in connection with the Retail Business.

"Joint System" has the meaning given to in the Background Statement of this Agreement.

"Joint System Agreement" has the meaning given to in the Background Statement of this Agreement.

"knowledge" and "know" means, when referring to the knowledge of the Seller, the actual knowledge of Robert S. Lilien, R. Sean Trauschke, or J. Michael Snow.

"Lien" means any mortgage, claim, lien, security interest, pledge, escrow, charge or other similar encumbrance.

"Leased Vehicles" has the meaning given to it in Section 2.5.

"Material Adverse Effect" means any change or effect (a) that would be materially adverse to the condition (financial or otherwise) or results of operation of the Retail Business, excluding changes and effects resulting from general economic and industry conditions not specific to the Retail Business and changes and effects the consequences of which should be recoverable through increased rates, or (b) that would materially impair the ability of the Seller to consummate the transactions contemplated by this Agreement.

"Permits" means all licenses, permits, authorizations, registrations, certificates of occupancy, franchises and approvals of any nature issued by any Governmental Authority to the Seller or otherwise obtained by the Seller from any Governmental Authority that are held by the Seller as of the date of this Agreement and that are held exclusively in connection with the operation of the Retail Business.

"Permitted Liens" means any of the following Liens: (a) Liens in favor of carriers, warehousemen, mechanics, landlords and materialmen and other similar Persons that are incurred in the ordinary course of business for sums not yet due and payable; (b) Liens for current taxes incurred in the ordinary course of business that are not delinquent or remain payable without any penalty or are being contested in good faith by appropriate proceedings and with respect to which adequate reserves are maintained; (c) rights reserved to any Governmental Authority to regulate the affected property; (d) statutory Liens of banks and statutory rights of set-off; (e) as to any leased assets or properties, rights of the lessors thereof; (f) Liens incurred or

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deposits made in the ordinary course of business in connection with workers' compensation and other types of social security, unemployment insurance, or old age pension programs mandated under applicable laws or regulations; (g) with respect to the Real Property, other imperfections of title and encumbrances that do not, individually, or in the aggregate, materially impair the continued use and operation of the Real Property in the Retail Business as presently conducted; (h) with respect to the Real Property, easements, rights of way, mineral rights or other similar reservations and restrictions that are set forth in the deeds to the Real Property or that affect title thereto or that do not materially or adversely affect or interfere with the Seller's use of the Real Property; and (i) the Liens listed on Schedule 1.I

"Person" means a corporation, a company, a limited liability company, an association, a joint venture, a partnership, an organization, a business, an individual, a trust, a Governmental Authority or any other legal entity.

"Post-Closing Adjustment" has the meaning given to it in Section 3.5(a).

"Real Property" means all of the real property described on Schedule 4 to Exhibit A.

"Receivables Amount" has the meaning given to it in Section 3.1.

"Retail Assets" has the meaning given to it in the Background Statement of this Agreement.

"Retail Business" means that portion of the business of the Seller's water company in Anderson County, South Carolina, that is related exclusively to the distribution and sale (but not treatment) of water to retail customers located within the area described on Schedule 1 to Exhibit A.

"Retained Real Property" has the meaning given to it in Section 2.4(a).

"Seller" has the meaning given to it in the Introduction of this Agreement.

"Seller Damages" has the meaning given to it in Section 9.3(a).

"Tax Return" means any report, return or other information required to be supplied to a taxing authority in connection with Taxes.

"Taxes" means any taxes, assessments, duties, fees, levies, imposts, or other governmental charges of any nature whatsoever imposed by any Governmental Authority and any liabilities with respect thereto, including any penalties, additions to tax, fines or interest thereon.

"Termination Date" has the meaning given to it in Section 10.1(b).

"Transaction Agreements" means this Agreement and the assignment and assumption agreement to be executed by the Seller and the Buyer as of the Closing Date.

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"Utilities Commission" means any state public utility control or public service commission or similar state regulatory body.

"Water Tank Property" has the meaning given to it in Section 7.5(b).

1.2 Interpretation. The following provisions shall govern the interpretation of this Agreement:

(a) "Herein" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, subsection, Exhibit or Schedule; references to this Agreement include the Exhibits and Schedules to this Agreement; and, unless the context requires otherwise, references to Exhibits and Schedules refer to the Exhibits and Schedules to this Agreement.

(b) Headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(c) Words importing the singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing individuals shall include Persons and vice versa.

(d) The calculation of time within which or following which any act is to be done or step is to be taken pursuant to this Agreement excludes the date which is the reference day in calculating such period.

(e) Performance on holidays is not required hereunder. Whenever anything is required to be done or any action is required to be taken hereunder on or by a day which is not a Business Day, then such thing may be validly done and such action may be validly taken on or by the next succeeding day that is a Business Day.

(f) The term "including" shall be deemed to mean "including without limitation."

(g) Except as specifically provided otherwise in this Agreement, all accounting terms used herein that are not specifically defined shall have the meanings customarily given them in accordance with generally accepted accounting principles.

(h) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

ARTICLE II

CONTEMPLATED TRANSACTIONS

2.1 Purchase of Retail Assets. On the Closing Date, the Seller shall sell and deliver to the Buyer, and the Buyer shall purchase from the Seller, all of the Seller's right, title and interest in and to the Retail Assets.

2.2 Assumption of Liabilities.

(a) Assumed Liabilities. On the Closing Date, the Buyer shall assume, and thereafter timely pay and perform, the following obligations and liabilities of the Seller (the "Assumed Liabilities"):

(i) the Liabilities arising out of the operation of the Retail Business from and after the Closing Date; and

(ii) the obligations from and after the Closing Date under all of the Contracts other than the Excluded Contracts.

(b) No Other Assumed Liabilities. Except as set forth in Section 2.2(a) above or as otherwise expressly provided herein, the Buyer shall not assume or become liable for the payment or performance of any Liabilities of the Seller.

2.3 Procedures for Non-Transferable Assets. If any Contracts included among the Retail Assets are not assignable or transferable either by virtue of the provisions thereof or under applicable law without the consent of some other party or parties, the Seller and the Buyer shall use commercially reasonable efforts to obtain such consents prior to the Closing Date. If any such consents cannot be obtained, the parties intend that the Buyer nevertheless receive the economic benefits of, and perform the obligations under, such Contracts as if such Contracts have been assigned to the Buyer. Accordingly, the Seller agrees to subcontract such Contracts to the Buyer at the price specified in each such Contract without any additional mark-up and on the same terms and conditions, and the Buyer shall be responsible for the costs associated with the performance of such Contracts and shall be entitled to and shall receive all the revenues from such Contracts. If subcontracting any such Contract is not permitted, the Seller shall cooperate with the Buyer in any reasonable arrangement designed to give to the Buyer the benefits of and obligations under such Contract.

2.4 Real Property Rights

(a) In the special warranty deeds conveying the Real Property to the Buyer, the Seller shall reserve to itself appropriate rights of way and easements in the Real Property (i) for the purpose of operating and maintaining power distribution and transmission lines and other power distribution and transmission assets and for other purposes customarily contained in power utility easements and rights of way; and (ii) for access by the Seller to any of the Seller's real property that will be subdivided and retained by the Seller (the "Retained Real Property").

(b) In the special warranty deeds conveying the Real Property to the Buyer, the Seller shall grant to the Buyer appropriate rights of way and easements in the Retained Real Property (i) for the purpose of operating and maintaining the distribution system of the Retail Business and for other purposes customarily contained in water utility easements and rights of way and (ii) for access by the Buyer to the Real Property.

2.5 Leased Vehicles. If the Buyer desires to purchase any of the vehicles (the "Leased Vehicles") that the Seller leases as of or after the date hereof for use exclusively in the conduct of the Retail Business, the Buyer shall notify the Seller in writing which Leased Vehicles the Buyer wishes to purchase at least 20 days prior to the Closing Date. After receiving such notice, the Seller shall take the necessary steps to purchase the Leased Vehicles desired by the Buyer from their respective lessors pursuant to the purchase options contained in the leases for such Leased Vehicles; provided, that, the Seller shall not have any obligation to purchase any Leased Vehicle that the Seller does not lease as of the date the Seller receives the notice from the Buyer pursuant to this Section 2.5 and shall not have any obligation to purchase any Leased Vehicle that the Seller leases pursuant to a lease that does not contain a purchase option. After such purchase by the Seller, such Leased Vehicles shall be considered part of the Retail Assets and shall be conveyed to the Buyer as provided hereunder. In consideration of the purchase of the Leased Vehicles by the Seller for the benefit of the Buyer, the Buyer shall pay to the Seller on the Closing Date, in addition to all other amounts due to the Seller hereunder, the total amount of all costs and expenses, as provided by the Seller to the Buyer in writing prior to the Closing Date, of the Seller in purchasing the Leased Vehicles desired by the Buyer. Notwithstanding anything to the contrary contained herein or in any of the other Transaction Documents, the Buyer agrees that the representations and warranties contained in Article V hereof (except for those contained in Section 5.12 hereof) shall not apply to the Leased Vehicles included in the Retail Assets. Except for the representation and warranty contain in Section 5.12 hereof, **SELLER MAKES NO EXPRESS WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO ANY OF THE LEASED VEHICLES SOLD TO THE BUYER HEREUNDER AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, AT LAW OR IN EQUITY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH LEASED VEHICLES.**

ARTICLE III

PURCHASE PRICE AND EXPENSES

3.1 Purchase Price. In consideration of the transfer to the Buyer of the Retail Assets, on the Closing Date, the Buyer shall pay to the Seller the amount of Fifteen Million Five Hundred and Eighty Thousand Dollars (\$15,580,000) (the "Base Purchase Price"), subject to any reduction in the Base Purchase Price elected by the Seller pursuant to Section 7.5 or 7.6, and plus an amount (such amount being referred to herein as the "Receivables Amount") equal to the sum of all Accounts Receivable as of the Closing Date (as so adjusted, the "Final Purchase Price").

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3.2 Estimation of Final Purchase Price. As soon as is practicable but in any event no fewer than two Business Days prior to the Closing Date, the Seller shall deliver to the Buyer a certificate, dated as of the date of delivery, setting forth the Seller's reasonable, good faith estimate of the Receivables Amount and the Final Purchase Price (the "Estimated Purchase Price").

3.3 Earnest Money Deposit. As security for the performance by the Buyer of its obligations hereunder, the Buyer has deposited with the Seller One Hundred and Sixty Thousand (\$160,000) (together with all earnings thereon, the "Deposit"). The Seller shall maintain the Deposit in a separate account and may invest, reinvest or not invest the Deposit in its sole discretion, provided, however, that any investment or reinvestment made must be in one or more of the following:

- (a) direct obligations of the United States of America or obligations the principal of and interest on which are guaranteed by the United States of America;
- (b) commercial paper obligations rated A-1 or P-1 or better by Moody's Investor Services, Inc. or Standard & Poor's Corporation;
- (c) certificates of deposit, fully collateralized bank repurchase agreements and bankers acceptances of commercial banks, trust companies, and national or state banks with capital exceeding \$500 million; and
- (d) any money market fund substantially all of which is invested in any of the foregoing.

In no event shall the Seller be liable to the Buyer for any losses resulting from or occasioned by the Seller's investment of the Deposit in compliance with the provisions of this Section 3.3 or its failure to invest the Deposit. Any interest or other amounts earned on the Deposit shall be considered part of the Deposit. Except as otherwise set forth herein, the Deposit shall be applied against the Estimated Purchase Price on the Closing Date.

3.4 Closing Payment. At the Closing, the Buyer shall pay to the Seller, by wire transfer of immediately available funds to an account designated by the Seller, an amount equal to the Estimated Purchase Price, less the amount of the Deposit.

3.5 Post Closing Adjustment.

(a) Within forty-five days after the Closing Date, the Seller shall determine the Receivables Amount as of the Effective Time. In connection with its determination of the Receivables Amount, the Seller shall have access to both the Retail Assets and books and records of the Retail Business relevant to the determination of the Receivables Amount, and the Buyer shall direct its personnel to cooperate with the Seller as may be necessary for the Seller to determine the Receivables Amount; provided, however, that such preparation by the Seller shall be conducted in a manner that does not interfere unreasonably with the operation of the Business. The Seller shall determine the value of the unbilled water service to be included in the Receivables Amount by multiplying (i) each amount billed after the Closing Date for service provided during a billing cycle that spans the Closing Date by (ii) a fraction, the numerator of which is the number of days in the applicable billing cycle that are on or before the Closing Date

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and the denominator of which is the total number of days in the applicable billing cycle. The Buyer shall have the right to audit the Seller's determination of the Receivables Amount and shall have full access to the workpapers of the accountants and other personnel involved in determining the Receivables Amount, and the Seller shall direct such personnel to cooperate with the Buyer as may be necessary for the Buyer to audit such determination. Taking into account its determination of the Receivables Amount, the Seller shall compute the Final Purchase Price. The Seller shall also compute the difference between the Estimated Purchase Price as provided by the Seller pursuant to Section 3.2 and the Final Purchase Price as determined by the Seller pursuant to this Section 3.5(a) (the "Post-Closing Adjustment"). Within forty-five days after the Closing Date, the Seller shall deliver to the Buyer a certificate setting forth its calculation of the Receivables Amount, the Final Purchase Price, and the Post-Closing Adjustment.

(b) If the Buyer does not accept the Receivables Amount, the Final Purchase Price, or the Post-Closing Adjustment determined by the Seller, the Buyer shall give written notice to the Seller within thirty days after delivery thereof. The notice shall set forth in detail the basis for the Buyer's objections. The Buyer shall be deemed to have accepted the Receivables Amount, the Final Purchase Price, and the Post-Closing Adjustment determined by the Seller at 5:00 p.m. Charlotte, North Carolina time on the 30th day after delivery thereof if the Buyer has not by then given the Seller timely written notice of objection. If the Buyer and the Seller are unable to resolve a disagreement with respect to the Receivables Amount, the Final Purchase Price, or the Post-Closing Adjustment within thirty days after delivery of the Buyer's written notice, the Seller and the Buyer shall engage a "big five" independent certified public accounting firm mutually agreeable to the Seller and the Buyer to resolve the issues. The accounting firm shall apply GAAP consistent with the Seller's past practices to the issues at hand and shall not have the power to alter, modify, amend, add to or subtract from any term or provision of this Agreement. The decision of the accounting firm shall be rendered within twenty days of the engagement and shall be binding on the parties. The Seller and the Buyer shall each pay one-half of the cost of engaging such accounting firm to perform the services described herein.

3.6 Post-Closing Payment. In the event that the Final Purchase Price exceeds the Estimated Purchase Price, the Buyer shall pay the Post-Closing Adjustment to the Seller. In the event that the Estimated Purchase Price exceeds the Final Purchase Price, the Seller shall pay the Post-Closing Adjustment to the Buyer. Any such payment pursuant to this Section 3.6 shall be made by wire transfer of immediately available funds within five days after acceptance of the Post-Closing Adjustment by the Buyer or, in the case of resolution of any disputed matter, within five days after the Post-Closing Adjustment is finally determined as provided above.

3.7 Real Property Expenses. The Seller shall pay all applicable real property transfer taxes, sales taxes, deed stamps and similar taxes on the deeds conveying the Real Property. The Buyer shall pay any recording fees for such deeds and assignments, and the cost of any surveys, title examination and title insurance obtained by the Buyer.

3.8 Property Taxes. The Buyer shall abate the portion of the taxes due on the assets of the Duke Water System, including the Retail Assets, (both ad valorem taxes and personal property taxes) for the calendar year 2002 that would otherwise be paid by the Seller. In addition, the Buyer shall join the Seller in requesting that Anderson County, South Carolina, abate its portion of such taxes.

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ARTICLE IV

CLOSING; EFFECTIVE TIME

4.1 Closing. The closing of the transactions contemplated herein (the "Closing") shall take place on the Closing Date at the Charlotte, North Carolina offices of Robinson, Bradshaw & Hinson, P.A., or at such other location to which the parties to this Agreement may mutually agree. At the Closing, the parties will execute and deliver all documents necessary to effect the transactions contemplated herein.

4.2 Closing Date. The parties agree to use their best efforts to cause the Closing of the transactions contemplated herein to occur as soon as possible. The Closing shall take place on such date as the parties to this Agreement may mutually agree (the "Closing Date"), which shall in any event be on or prior to April 17, 2002.

4.3 Effective Time. The effective time of the transfer of the Retail Assets and assumption of the Assumed Liabilities shall be deemed to be 11:59 p.m. on the Closing Date (the "Effective Time").

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller represents and warrants to the Buyer as follows:

5.1 Organization; Qualification. The Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of North Carolina, is duly qualified and in good standing to do business as a foreign corporation in South Carolina, and has all requisite corporate power and authority to own, lease and operate the Retail Assets and to carry on the Retail Business as presently conducted.

5.2 Authority. The Seller has the full corporate power and authority to execute and deliver the Transaction Agreements and to consummate the transactions contemplated thereby. The execution and delivery of the Transaction Agreements and the consummation of the transactions contemplated thereby have been duly and validly authorized and approved by all necessary corporate action on behalf of the Seller and no other corporate proceedings are necessary to authorize the Transaction Agreements or the consummation of the transactions contemplated thereby. This Agreement has been duly and validly executed and delivered by the Seller, and at the Closing the other Transaction Agreements will be duly and validly executed by the Seller. Assuming this Agreement and the other Transaction Agreements constitute or will constitute legal, valid and binding agreements of the Buyer, this Agreement and the other Transaction Agreements constitute or, upon execution, will constitute legal, valid and binding agreements of the Seller, enforceable against the Seller in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and to general principles of equity.

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5.3 Consents and Approvals: No Violations.

(a) The execution, delivery and performance of the Transaction Agreements by the Seller and the Seller's compliance with the terms thereof will not, except as set forth on **Schedule 5.3**: (i) conflict with any provision of the articles of incorporation or bylaws of the Seller; (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any Contract to which the Seller is a party, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained and except for such defaults (or rights of termination, cancellation or acceleration) that would not have a material effect on the Seller's ability to consummate the transactions contemplated hereby and to carry out its obligations hereunder; or (iii) violate any statute, law, rule, regulation, order, writ, injunction or decree of any Governmental Authority, but excluding from the foregoing clauses (ii) and (iii) such defaults, impositions and violations that, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority or by any other Person, is required by or with respect to the Seller in connection with the execution and delivery of the Transaction Agreements by the Seller or the consummation of the transactions contemplated thereby, except as set forth on **Schedule 5.3** and except for those required under or in relation to (i) laws, rules, regulations, practices and orders of Utilities Commissions, (ii) laws, rules, regulations, practices and orders of Health Agencies, (iii) antitrust or other competition laws of other jurisdictions, (iv) consents and approvals required in connection with the assignment of Contracts pursuant to this Agreement and (v) such consents, approvals, orders, authorizations, registrations, declarations and filings the failure of which to make or obtain would not reasonably be expected to result in a Material Adverse Effect.

5.4 Financial Statements. True and complete copies of the Financial Statements have been delivered or made available to the Buyer. Such Financial Statements contain classifications and valuations in accordance with GAAP consistent with the Seller's past practices and fairly present the results of operations and financial position of the Duke Water System on a pro forma basis for the periods and as of the dates set forth therein, except that the Financial Statements do not reflect any liabilities for commitments made to extend service, any existing and unexpired refund agreements entered into by the Seller pursuant to the Seller's service regulations, or allocated pension expense relating to the participation of the employees of the Seller in any pension plans maintained by the Seller.

5.5 Certain Contracts and Arrangements. All Contracts existing as of the date hereof that relate exclusively to the Retail Business are either (i) listed on **Schedule 5.5**, (ii) Contracts for the purchase or sale of goods or services entered into in the ordinary course of business and not involving a financial obligation in excess of \$35,000 per year, (iii) Contracts cancelable without penalty on 90 days' notice or less, (iv) licenses for the use of off-the-shelf computer software or (v) Contracts that, in the aggregate, do not impose a material obligation on the Seller. Each Contract listed on **Schedule 5.5** is a legal, valid, and binding obligation of the Seller, and, to the knowledge of the Seller, the other party or parties to such Contract. The Seller is not in

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breach or default in any material respect under any of such Contracts and, to the knowledge of the Seller, no other party to any such Contract is in breach or default in any respect thereunder, except, in either case, such breaches that, in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5.6 Litigation. Except as disclosed on Schedule 5.6, there are no claims, actions, suits, investigations or proceedings pending or, to the knowledge of the Seller, threatened against the Seller that relate to the Retail Business or any of the Retail Assets before any Governmental Authority or arbitration tribunal that might reasonably be expected to have a Material Adverse Effect.

5.7 Compliance with Applicable Laws. To the knowledge of the Seller, the Seller is in compliance in all material respects with applicable laws relating to ownership, leasing and operating the Retail Assets and carrying on the Retail Business.

5.8 Employees; Labor Matters. Except as disclosed on Schedule 5.8, the Seller is not a party to any collective bargaining agreement with respect to the Retail Business, nor has it recognized or received a demand for recognition of any collective bargaining representative with respect thereto, and during the past three years there have been no material labor strikes, disputes or work stoppages with respect to the Retail Business and, to the knowledge of the Seller, no such actions are threatened against the Seller. There are no unfair labor practice claims or charges pending against the Seller with respect to the Retail Business.

5.9 Employee Benefit Plans. The Seller has not incurred (nor has any event occurred that could result in the Seller incurring) any liability in connection with any existing or previously existing Plan that could become, on or after the Closing Date, an obligation or liability of the Buyer.

5.10 Taxes.

(a) (i) There is no action, suit, proceeding, investigation, audit, claim or assessment pending or, to the knowledge of the Seller, proposed with respect to Taxes related to the Retail Business, and (ii) there are no Liens for Taxes upon the Retail Assets, other than Liens for Taxes not yet past due.

(b) The Seller has disclosed on its federal income Tax Returns covering Taxes related to the Retail Business all positions taken therein with respect to Taxes related to the Retail Business that could give rise to a substantial understatement of its federal income Tax related to the Retail Business within the meaning of Section 6662 of the Code.

5.11 Permits.

(a) Schedule 5.11(a) to this Agreement lists all of the material Permits that relate exclusively to the Retail Assets or the Retail Business.

(b) The Permits listed on Schedule 5.11(a) are in full force and effect, and no material violations of any of the Permits have occurred or, to the knowledge of the Seller, have been alleged to have occurred. Furthermore, no proceedings are pending or, to the knowledge of

the Seller, threatened, that would have the effect of revoking or materially limiting or affecting the transfer or renewal of any of the Permits. The Permits listed on Schedule 5.11(a) may not be assigned to the Buyer without the consent of a Person other than the Seller.

5.12 Personal Property. The Seller owns and has good, valid and marketable title to all of the Retail Assets constituting personal property free and clear of all Liens except Permitted Liens.

5.13 Real Property. Except as disclosed on Schedule 5.13, no condemnation of any Real Property has occurred, is pending or, to the knowledge of the Seller, is threatened. To the knowledge of the Seller, the conduct of the Retail Business by the Seller within the Real Property complies in all material respects with all applicable legal requirements relating to the Real Property, including requirements under the applicable zoning ordinances, building code requirements and any requirements under applicable private restrictions.

5.14 Fixed Assets. The Retail Assets that constitute personal property are in sufficient operating condition and repair to permit the operation of the Retail Business in accordance with past practices.

5.15 Intellectual Property. Except for its registered service mark, Duke Water SystemsSM, the Seller owns no registered trademarks, registered service marks, registered copyrights or patents used in the Retail Business. The Seller has the right to use all trademarks, service marks, trade names, copyrights, patents and other Intellectual Property used in the Retail Business as it presently uses them. To the knowledge of the Seller, no trademark, trade name, copyright or patent used by the Seller in the Retail Business is the subject of any infringement action, or action seeking to deny, modify or revoke any registration or application therefor or renewal thereof. To the knowledge of the Seller, the Seller is entitled to use all designs, processes, licenses and all other Intellectual Property used by it in the Retail Business, and the Seller has not granted to any third party any right, title or interest in or to any such Intellectual Property.

5.16 Environmental Matters.

(a) Except as disclosed on Schedule 5.16:

(i) To the knowledge of the Seller, Hazardous Materials have not at any time been illegally generated, used, treated, released or stored on the Real Property in material amounts by the Seller;

(ii) To the knowledge of the Seller, the Seller's operation of the Retail Business is in material compliance with all applicable Environmental Laws;

(iii) There are no material pending or, to the knowledge of the Seller, threatened, written demands, claims or notices of noncompliance or violation against or to the Seller with respect to the Retail Business relating to an Environmental Law; and, to the knowledge of the Seller, there are no conditions or occurrences on any Real Property that would reasonably be expected to lead to any such demands, claims or notices against or to the Seller; and

(iv) To the knowledge of the Seller, there are no underground storage tanks located on any Real Property.

(b) To the knowledge of the Seller, the Seller, in connection with the Retail Business: (i) has never sent or disposed of, otherwise had taken or transported, arranged for the taking or disposal of (on behalf of itself, a customer or any other party) or in any other manner participated or been involved in the taking of or disposal or release of a Hazardous Material to or at a site that is contaminated by any Hazardous Material or that, pursuant to any Environmental Law, (1) has been placed on the "National Priorities List", the "CERCLIS" list, or any similar state or federal list, or (2) is subject to or the source of a claim, an administrative order or other request to take "removal", "remedial", "corrective" or any other "response" action, as defined in any Environmental Law, or to pay for the costs of any such action at the site; (ii) is not involved in (and has no basis to reasonably expect to be involved in) any suit or proceeding and has not received (and has no basis to reasonably expect to receive) any notice, request for information or other communication from any Governmental Authority or other third party with respect to a release or threatened release of any Hazardous Material or a violation or alleged violation of any Environmental Law, and has not received (and has no basis to reasonably expect to receive) notice of any claims from any Person relating to property damage or to personal injuries from exposure to any Hazardous Material; and (iii) has timely filed every report required to be filed, acquired all necessary certificates, approvals and permits, and generated and maintained all required data, documentation and records under all Environmental Laws, except in such case in which the failure to do so would not reasonably be expected to have a Material Adverse Effect.

5.17 Books and Records. All the books and records relating to the Retail Business have been maintained in the ordinary course of the Retail Business consistent with its past practices.

5.18 Regulation as a Utility. The Duke Water System is regulated as a public utility in South Carolina. The Duke Water System is not subject to regulation as a public utility or public service company (or similar designation) by any other state in the United States, by the United States or any agency or instrumentality of the United States or by any foreign country.

5.19 Brokers and Finders. The Seller has not employed any broker or finder in connection with the transactions contemplated by this Agreement, other than A.G. Edwards & Sons, Inc. or incurred any liability for any brokerage fees, commissions or finders' fees in connection with the transactions contemplated by this Agreement, other than to A.G. Edwards & Sons, Inc.

5.20 Disclaimer of Additional Warranties. Except as expressly set forth in this Agreement, or any of the certificates or instruments delivered pursuant to the terms hereof, the Seller makes no representations or warranties, express or implied, at law or in equity, with respect to the Retail Business or the Retail Assets, including any representation or warranty of merchantability, suitability or fitness for a particular purpose, or as to the quality of the Retail Assets, or any part thereof, the condition or workmanship thereof, or the absence of any defects therein, whether latent or patent, and any such representations or warranties contained in material previously delivered to the Buyer by the Seller are hereby expressly disclaimed.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF THE BUYER

6.1 Organization and Authority of the Buyer. The Buyer represents and warrants to the Seller as follows:

(a) The Buyer is a duly incorporated municipality, validly existing and in good standing under the laws of the State of South Carolina.

(b) The Buyer has full governmental and corporate power and authority to execute this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by the Buyer and the consummation of the transactions contemplated hereby have been duly and validly authorized and approved by all necessary governmental and corporate action on behalf of the Buyer, and except for approval of the Buyer's consummation of the transactions contemplated by this Agreement, no other governmental or corporate proceedings on behalf of the Buyer are necessary to authorize this Agreement or the consummation of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Buyer. Assuming this Agreement constitutes a legal, valid and binding agreement of the Seller, this Agreement constitutes a legal, valid and binding agreement of the Buyer, enforceable against the Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and to general principles of equity.

6.2 Consents and Approvals. The Buyer represents and warrants to the Seller as follows:

(a) The execution, delivery and performance by the Buyer of this Agreement and the other Transaction Agreements and the compliance by the Buyer with the terms thereof will not: (i) conflict with any provision of the municipal charter or bylaws of the Buyer; (ii) violate any statute, law, rule, regulation, order, writ, injunction or decree of any Governmental Authority but excluding from the foregoing clause (ii) such defaults, impositions and violations that, in the aggregate, could not reasonably be expected to impair materially the Buyer's ability to perform its obligations under this Agreement.

(b) No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority or by any other Person, is required by or with respect to the Buyer in connection with the execution and delivery of this Agreement by the Buyer or the consummation of the transactions contemplated hereby by the Buyer except for those required under or in relation to (A) laws, rules, regulations, practices and orders of any Utilities Commissions, (B) laws, rules, regulations, practices and orders of any Health Agencies, (C) antitrust or other competition laws of other jurisdictions and (D) the South Carolina Joint Municipal Water Systems Act, South Carolina Code Section 6-25-5 *et seq*

6.3 Financing; Securities Laws The Buyer has the ability to obtain all funds necessary to enable the Buyer to perform this Agreement in accordance with its terms. The Buyer agrees that at all times between the date hereof and the Closing Date it will take all

necessary or advisable actions to ensure that funds sufficient to permit the Buyer to pay the amount required to be paid pursuant to Section 3.1 will be available on the Closing Date. The Buyer has taken all actions required to comply with all applicable federal and state securities laws in connection with obtaining funds necessary to pay the Final Purchase Price, and the Buyer agrees that, between the date hereof and the Closing Date, the Buyer will take all actions required to comply with such laws.

6.4 Litigation. There are no legal, administrative, arbitration or other proceedings or governmental investigations pending or, to the knowledge of the Buyer, threatened against the Buyer that could reasonably be expected to impair materially the Buyer's ability to perform its obligations under this Agreement.

6.5 Commissions. No broker, finder or other Person is entitled to any brokerage fees, commissions or finder's fees in connection with the transactions contemplated hereby by reason of any action taken by the Buyer.

ARTICLE VII

COVENANTS OF THE PARTIES

7.1 Conduct of Business. Except as otherwise contemplated by this Agreement, during the period from the date of this Agreement to the Closing Date, the Seller will conduct the Retail Business in a manner consistent with prior practice and in the ordinary and usual course.

7.2 Access to Information.

(a) From the date of this Agreement to the Closing Date, the Seller will (i) give the Buyer and its authorized representatives reasonable access during normal business hours to the facilities, personnel, operations, books and records of the Retail Business, (ii) cause its officers or other appropriate officials to furnish the Buyer with such financial and operating data and other information with respect to the Retail Business as the Buyer may from time to time reasonably request, provided, however, that any such investigation by the Buyer shall be conducted in such a manner as not to interfere unreasonably with the Seller's business operations and in such a manner as to retain the confidentiality of the proposed transaction.

(b) The Buyer shall hold, and shall cause its consultants and advisors to hold, in strict confidence all documents and information concerning the Seller furnished to the Buyer in connection with the transactions contemplated by this Agreement, and the Sellers shall hold, and shall cause its consultants and advisors to hold, in strict confidence all documents and information concerning the Buyer furnished to the Seller in connection with the transactions contemplated by this Agreement; provided, however, that in each case any party may disclose any document or information (i) that is already public knowledge prior to such disclosure, (ii) to the extent that, in the reasonable opinion of the disclosing party's legal counsel, such disclosure is necessary in order to conform to the requirements of any applicable securities laws and regulations, including without limitation the rules of any securities exchange, but only after the disclosing party has given prior written notice of the disclosure to the non-disclosing parties, and

(iii) to the extent such disclosure is necessary to comply with any Freedom of Information Act or other similar public-disclosure law, rule or regulation applicable to the Buyer.

(c) After the Closing, the Seller and the Buyer will each use commercially reasonable efforts to furnish the other and its authorized representatives such financial and operating data and other information with respect to the Retail Business as each may from time to time reasonably request.

7.3 Employee Benefits. For purposes of employee benefits under the Seller's employee benefit plans, all of the Seller's employees who accept employment with the Buyer shall be considered terminated employees and shall have no further rights accrue to them under the Seller's employee benefit plans after the Closing Date.

7.4 Noncompetition by the Seller.

(a) The Seller agrees that for a period of three years after the date hereof, without the Buyer's prior written consent, it will not, directly or indirectly, either as principal, agent, manager, partner, shareholder, consultant or otherwise, (i) become engaged or involved in any business (other than as a less than 5% equity owner of any corporation traded on any national, international or regional stock exchange or in the over-the-counter market) that competes with the Buyer in the Retail Business; or (ii) induce or attempt to induce any customer, supplier, employee, consultant, contractor or agent of the Buyer to reduce, terminate, restrict or otherwise alter its business relationship with the Buyer. If any provision or part of this Section 7.4 is held to be unenforceable because of the duration of such provision or the geographic area covered thereby as provided in Section 7.4(b) below, the parties hereto agree to modify such provision, or that the court making such determination shall have the power to modify such provision, to reduce the duration or area of such provision or both, or to delete specific words or phrases herefrom ("blue-penciling"), and, in its reduced or blue-penciled form, such provision shall then be enforceable and shall be enforced. The parties intend the above restrictions on competition to be completely severable and independent, and any invalidity or unenforceability of any one or more of such restrictions shall not render invalid or unenforceable any one or more of the other restrictions.

(b) The provisions of Section 7.4(a) shall be limited in scope and effective only within the legal boundaries described on Exhibit A.

(c) Notwithstanding the foregoing, it shall not be a violation of this Section 7.4 if the Seller shall come to own, through the acquisition, directly or indirectly, whether by merger or otherwise, another business which, among other business activities engages in a business that competes with the Buyer in the Retail Business, provided that the Seller (i) promptly notifies the Buyer that it has made an acquisition of a business that competes with the Buyer in the Retail Business and (ii) divests itself of that portion of the acquired business that competes with the Buyer in the Retail Business within two years after consummating the acquisition thereof.

(d) The Seller acknowledges that the Buyer may have no adequate means to protect its rights under this Section 7.4 other than by securing an injunction (a court order prohibiting the Seller from violating this Agreement). The Seller agrees that the Buyer may enforce this

Section 7.4 by obtaining a preliminary and permanent injunction and any other appropriate equitable relief in any court of competent jurisdiction. The Seller acknowledges that the recovery of damages will not be an adequate means to redress a breach of this Section 7.4, but nothing in this Section 7.4 shall prohibit the Buyer from pursuing any remedies in addition to injunctive relief, including recovery of damages.

7.5 Environmental Testing.

(a) From the date of this Agreement through March 15, 2002, the Seller will permit the Buyer and its authorized representatives to make such reasonable environmental inspections of the Real Property as the Buyer may request and to conduct such tests, studies and surveys and take samples at the sole cost and expense of the Buyer as the Buyer reasonably deems necessary for evaluating the environmental condition of the Real Property and the improvements thereon. Notwithstanding the foregoing, the right of the Buyer and its authorized representatives to enter upon and conduct tests upon the Real Property is expressly made subject to the following terms and conditions: Any samples shall be taken only at the locations approved in advance by the Seller, and the Buyer shall first verify that no utilities or other improvements shall be damaged by any such sampling. The Buyer shall undertake all such work in accordance with applicable legal requirements and in a manner that minimizes any disruption to the Real Property and operations thereon. The Buyer shall provide the Seller with not less than two Business Days prior written notice of the date on which any entry upon the Real Property shall occur hereunder. Promptly upon completion of any entry upon the Real Property hereunder, the Buyer shall repair any damage caused by such entry. The Buyer shall remove from the Real Property and properly dispose of in accordance with all applicable legal requirements any waste materials generated in connection with sampling work. To the extent permitted by law, the Buyer shall indemnify, defend and hold harmless the Seller and its agents, employees, heirs, successors and assigns from and against any and all liens, liabilities, damages, claims, demands, costs and expenses of every kind and nature (including reasonable attorneys' fees) arising from any injury or damage to any person (including death), property or business in connection with entry upon the Real Property hereunder, these obligations to survive expiration or earlier termination of this Agreement.

(b) If the Buyer determines that Hazardous Materials are located on the Real Property, the Buyer shall furnish to the Seller the findings of a qualified environmental assessment firm demonstrating the existence of any Hazardous Materials in, on or under such Real Property requiring remediation under applicable law relating to Hazardous Materials and providing a reasonable estimate of the cost of the required remediation. If the estimated cost of the remediation does not exceed the \$25,000, the Indemnification Threshold shall be decreased by the estimated cost of such remediation. If the estimated cost of such remediation is in excess of \$25,000, the Seller may elect to perform such remediation, reduce the Base Purchase Price by the cost of such remediation or terminate this Agreement. If the estimated cost of such remediation is in excess of \$25,000 and the Seller elects to reduce the Base Purchase Price by the cost of such remediation, the Buyer may elect to terminate this Agreement. The provisions of this Section 7.5(b) shall only apply to the extent that: (A) remediation of the Hazardous Materials is required pursuant to an applicable Environmental Law that is in effect and is enforceable or is required by any Governmental Authority; (B) the remediation standards that must be met in order to satisfy the requirements of the applicable Environmental Law are those remediation standards that would be the least stringent remediation standards, taking into

account that the normal operating condition at the affected facility shall be maintained at all times, that would be applicable given the use of the property or as required by any Governmental Authority; and (C) the estimated cost of such remediation assumes that such remediation will be conducted using the most cost effective methods, taking into account that the normal operating condition at the affected facility shall be maintained at all times, for remediation with applicable Environmental Laws. Except as otherwise provided in Section 7.5(c), the foregoing shall not apply to the existence of lead in the tracts of Real Property to be conveyed to the Buyer on which water tanks are constructed (i.e. the properties numbered 2 through 7 on Schedule 4 to Exhibit A) (the "Water Tank Properties").

(c) With respect to the existence of lead in the Water Tank Properties:

(i) If, prior to the Closing, the Buyer delivers to the Seller the findings of a qualified environmental assessment firm demonstrating the existence of lead in any Water Tank Property in concentrations that require remediation in accordance with Section 7.5(b), at the Closing the Seller shall place into escrow with a third party mutually acceptable to the Buyer and the Seller, pursuant to an escrow agreement that is also mutually acceptable, \$50,000 per Water Tank Property that must be remediated.

(ii) The Buyer shall have the right to conduct any such required remediation, which shall be performed in the most cost effective manner, and the Seller shall have the right to monitor the remediation and the costs of such remediation. The Buyer shall provide the Seller a reasonable opportunity to comment on any plan of remediation and on the incurrence of any remediation costs prior to the implementation of any such plan or the incurrence of any such costs. As the Buyer incurs costs in connection with any such remediation, the Buyer shall provide the Seller reasonably detailed evidence of such costs and the Buyer and the Seller shall, from time to time, direct the escrow agent to reimburse the Buyer for up to \$50,000 of such costs in the aggregate with respect to each such Water Tank Property.

(iii) If the required remediation of a Water Tank Property will not be completed on or before the Closing Date, at the Buyer's option, the Seller shall retain title to such Water Tank Property until the remediation is completed, at which time the Seller shall convey such Water Tank Property to the Buyer upon the terms provided herein.

(iv) With respect to any Water Tank Property that contains levels of lead concentration in soil that exceed acceptable levels under current Environmental Laws, but which levels do not require remediation in accordance with Section 7.5(b), if the Buyer nevertheless chooses to remediate such Water Tank Property, the Seller shall reimburse the Buyer up to \$10,000 of the reasonable costs incurred by the Buyer in connection with the remediation of such Water Tank Property. In any such case, the Seller shall have the same rights as provided in Section 7.5(c)(ii) to monitor the remediation and to comment on the remediation plan and the remediation costs.

(v) The Buyer shall assume on the Closing Date any and all obligations of the Seller to remediate the Water Tank Properties with respect to the existence of lead in such Water Tank Properties, including without limitation any and all such obligations in

excess of \$50,000 per each Water Tank Property. The obligations of the Seller assumed by the Buyer pursuant to this paragraph shall be included in the definition of "Assumed Liabilities" herein.

7.6 Casualty and Restoration. If any part of the Retail Assets is damaged or destroyed by casualty loss prior to the Closing Date, and the cost of restoring the damaged or destroyed Retail Assets to a condition reasonably comparable to their prior condition does not exceed \$5,000,000, the Seller may elect to perform such restoration (as long as such restoration can be completed by the Termination Date) or reduce the amount of the Base Purchase Price by the estimated cost of such restoration (as estimated by a qualified firm reasonably acceptable to the Buyer and the Seller). If the cost of restoration is in excess of \$5,000,000, the Seller may elect to perform such restoration (as long as such restoration can be completed by the Termination Date), reduce the Base Purchase Price by such estimated cost of restoration or terminate this Agreement. If the cost of the restoration is in excess of \$5,000,000 and the Seller elects to reduce the Base Purchase Price by such estimated cost of restoration, the Buyer may elect to terminate this Agreement.

7.7 Filings.

(a) Subject to the terms and conditions of this Agreement, the Seller and the Buyer will use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the transactions contemplated by this Agreement by the Closing Date. In furtherance and not in limitation of the foregoing, the Seller and the Buyer shall use commercially reasonable efforts to (i) make all appropriate filings and submissions with any Utilities Commission, Health Agency or other Governmental Authority that may be necessary, proper or advisable under applicable laws or regulations in respect of any of the transactions contemplated by this Agreement, (ii) cooperate in all respects with each other in connection with any such filing or submission and in connection with any investigation or other inquiry, including any proceeding initiated by a private party, (iii) promptly inform the other parties of any communication received by such party from, or given by such party to, Utilities Commissions, Health Agencies, or any other Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, in each case regarding any of the transactions contemplated hereby and (iv) permit the other parties to review any communication given by it to, and consult with each other in advance of any meeting or conference with, Utilities Commissions, Health Agencies, or any such other Governmental Authority or, in connection with any proceeding by a private party, with any other Person, and to the extent permitted by Utilities Commissions, Health Agencies, or such other applicable Governmental Authority or other Person, give the other parties the opportunity to attend and participate in such meetings and conferences.

(b) In furtherance and not in limitation of the covenants of the parties contained in Section 7.7(a), if any administrative or judicial action or proceeding, including any proceeding by a private party, is instituted (or threatened to be instituted) challenging any transaction contemplated by this Agreement as violative of any applicable law or regulation, each of the Buyer and the Seller shall cooperate with each other in all respects and use commercially reasonable efforts to contest and resist any such action or proceeding and to have vacated, lifted,

reversed or overturned any decree, judgment, injunction or other order, whether temporary, preliminary or permanent, that is in effect and that prohibits, prevents or restricts consummation of the transactions contemplated by this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, nothing in this Section 7.7(b) shall limit the right of the Buyer or the Seller to terminate this Agreement pursuant to Section 10.1(b) or 10.1(c) so long as such party has complied in all respects with its obligations under this Section 7.7(b).

(c) If any objections are asserted with respect to the transactions contemplated hereby under any applicable law or regulation or if any suit is instituted by any Governmental Authority or any private party challenging any of the transactions contemplated hereby as violative of any applicable law or regulation, the Seller and the Buyer shall use commercially reasonable efforts to resolve any such objections or challenges as such Governmental Authority or private party may have to such transactions under such law or regulation so as to permit consummation of the transactions contemplated by this Agreement.

7.8 Consummation of Agreement. Each of the Seller and the Buyer shall use commercially reasonable efforts (which efforts shall include the reasonable prosecution of a lawsuit against any party that attempts to interfere with the consummation of transactions contemplated by this Agreement) to perform or fulfill all conditions and obligations to be performed or fulfilled by it under this Agreement so that the transactions contemplated hereby shall be consummated. The Seller shall not take any action or fail to take any commercially reasonable action if such action or failure could reasonably be expected to cause the representations of the Buyer contained in this Agreement to become false. The Buyer shall not take any action or fail to take any commercially reasonable action if such action or failure could reasonably be expected to cause the representations of the Seller contained in this Agreement to become false. Except for events that are the subject of specific provisions of this Agreement, if any event should occur, either within or outside the control of the Buyer or the Seller, that would materially delay or prevent fulfillment of the conditions upon the obligations of any party hereto to consummate the transactions contemplated by this Agreement, the Buyer and the Seller will use their respective best, diligent and good faith efforts to cure or minimize the same as expeditiously as possible.

7.9 Public Announcements. The Seller will consult with the Buyer and the Buyer shall consult with the Seller before issuing any press release or otherwise making any public statements with respect to the sale of the Retail Assets hereunder and shall not issue any such press release or make any such public statement that is not approved by the other party or parties, as the case may be, which approval shall not be unreasonably withheld, except as may be required by law or court order, in which case the Seller and the Buyer will make reasonable efforts to consult with each other prior to the making of such public statement.

7.10 Notice of Events.

(a) The Buyer will promptly, and in no event later than three Business Days after obtaining knowledge thereof, give oral and written notice to the Seller of (i) any material default or breach by the Buyer with respect to any of the Buyer's representations and warranties in this Agreement or the due and timely performance of any of the Buyer's covenants and agreements contained in this Agreement, or (ii) any other matter that has impaired materially, or might

reasonably be expected to impair materially, the Buyer's ability to perform its obligations under this Agreement; and

(b) The Seller will promptly, and in no event later than three Business Days after obtaining knowledge thereof, give oral and written notice to the Buyer of (i) any material default or breach by the Seller with respect to any of the Seller's representations and warranties in this Agreement or the due and timely performance of any of the Seller's covenants and agreements contained in this Agreement, (ii) any matter that has resulted in, or might reasonably be expected to result in, a Material Adverse Effect, or (iii) any other matter that has impaired materially, or might reasonably be expected to impair materially, the Seller's ability to perform its obligations under this Agreement.

7.11 Post-Closing Access to the Assets.

(a) The Buyer shall permit the Seller to have access to the Real Property for a reasonable period of time following the Closing for the purpose of allowing the Seller and the Joint System to remove any assets that do not constitute the Retail Assets.

(b) The Seller shall be permitted to maintain its telecommunications equipment on the Owens Corning Fiberglass Tank located on Starr Highway in Anderson, South Carolina, for a period of one year after the Closing Date, at no cost to the Seller, and shall be permitted reasonable access to such telecommunications equipment. The Seller shall have the right to remove its telecommunications equipment from the Owens Corning Fiberglass Tank at any time during such one-year period. After the expiration of such one-year period, any telecommunications equipment not removed shall become the property of the owner of such tanks. The Seller agrees to (a) repair any damage to any property of the Buyer resulting from the Seller's operation, maintenance, repair, replacement or removal of such equipment, and (b) to indemnify and hold the Buyer harmless from any loss or liability for any damage to, or destruction of, property or any injury, death or other loss to persons resulting directly or indirectly from the acts or omissions of any officer, employee, agent, contractor or any other person acting on behalf of the Seller in connection with the Seller's operation, maintenance, repair, replacement or removal of such equipment.

7.12 Allocation of Purchase Price. The Seller and the Buyer shall use commercially reasonable efforts to agree on an allocation of the Final Purchase Price among the Retail Assets (with the remainder of the Final Purchase Price being allocated to goodwill). The Seller and the Buyer agree that they shall report the transactions contemplated by this Agreement for income tax purposes in accordance with the agreed upon allocation of the Final Purchase Price, pursuant to Section 1060 of the Code and the regulations thereunder, and agree not to take, in any filing with or accompanying any Tax Return reporting any part of the transaction undertaken herein, a position inconsistent with such allocations; provided, however, that if the Seller and the Buyer are unable to reach an agreement with respect to the allocation of the Final Purchase Price, each party may allocate the Final Purchase Price among the Retail Assets as it deems appropriate.

7.13 Assumption of Contracts. The Buyer shall use commercially reasonable efforts to cause each of the Seller's industrial customers that is a party to a water purchase agreement with the Seller to terminate its water purchase agreement effective on the Closing Date and to enter

into a replacement purchase agreement directly with the Buyer. In addition, the Seller and the Buyer shall cooperate to obtain the release of the Seller with respect to all contracts to be assigned to the Buyer, and the assignment and assumption agreement to be entered into and delivered by the parties at the Closing shall provide that the Buyer (i) shall fully perform the Seller's obligations under the assigned contracts and (ii) shall, if a release of the Seller is not obtained, indemnify the Seller, to the extent permitted by law, for any breach by the Buyer of any such contracts.

7.14 Sale of Taps. The Buyer agrees that it will sell to the Joint System or its designees at the Closing or within 10 days thereafter all of the taps listed on Exhibit G at a price of \$700.00 per tap.

7.15 Operating Agreement. At the Closing, the Buyer agrees to enter into an operating agreement with the Joint System in the form attached hereto as Exhibit H.

ARTICLE VIII

CLOSING CONDITIONS

8.1 Mutual Conditions. The respective obligations of each of the parties to this Agreement to effect the transactions contemplated hereby shall be subject to the fulfillment at or prior to the Closing Date of the following conditions:

(a) Neither the Seller nor the Buyer shall be subject on the Closing Date to any order, decree or injunction of a court of competent jurisdiction that enjoins or prohibits the consummation of this Agreement and no Governmental Authority shall have instituted a suit or proceeding that is then pending that seeks to enjoin or prohibit the transactions contemplated hereby. If the Seller or the Buyer is subject to any such order, decree or injunction or the subject of any such suit or proceeding, then such Person shall take any steps within such Person's control to cause any such order, decree or injunction to be modified so as to permit the Closing and to cause any such suit or proceeding to be dismissed.

(b) No federal, state, local or foreign, if any, law, statute, regulation, code, ordinance or decree shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other Governmental Authority of competent jurisdiction shall be in effect, having the effect of making the transactions contemplated herein illegal or otherwise prohibiting consummation of the transactions contemplated herein; provided, however, that the provisions of this Section 8.1(b) shall not relieve the Seller or the Buyer of its obligations to effect the transactions contemplated by this Agreement if such party's or parties' failure to fulfill its obligations pursuant to Section 7.7 shall have been the cause of, or shall have resulted in, such order or injunction.

(c) All approvals required for the transactions contemplated herein from Utilities Commissions and Health Agencies shall have been obtained.

(d) The Closing of the transactions contemplated by this Agreement shall be in compliance with all applicable state and federal laws, including without limitation all laws that would render the transactions contemplated by this Agreement void or voidable.

(e) The transactions contemplated by the Joint System Agreement shall have closed or shall be closed simultaneously with the transactions contemplated hereby.

8.2 Conditions to the Obligations of the Seller. The obligations of the Seller to effect the transactions contemplated hereby shall be subject further to the fulfillment of the following conditions, any one or more of which may be waived by the Seller:

(a) All representations and warranties of the Buyer contained in this Agreement shall be true and correct in all material respects as of the Closing Date as though made as of such date (except as otherwise contemplated by this Agreement). The Buyer shall have performed and complied in all material respects with all of its covenants and agreements contained in this Agreement required to be performed and complied with by it at or prior to the Closing. The Seller shall have received a certificate with respect to the matters set forth in this Section 8.2(a) signed on behalf of the Buyer by authorized officers.

(b) (i) All documents required to have been delivered by the Buyer to the Seller at or prior to the Closing shall have been delivered and (ii) all actions required to have been taken by the Buyer at or prior to the Closing shall have been taken.

(c) The Seller shall have received the opinion of counsel to the Buyer, as to the matters set forth on Exhibit B, dated the Closing Date and in form and substance reasonably satisfactory to the Seller.

(d) As of the Closing Date, the Seller shall have received from the Buyer the following documents:

(i) a certificate from the Clerk of City Council of the Buyer as to the incumbency and signatures of its officers who will execute documents at the Closing;

(ii) an assignment and assumption agreement in form and substance satisfactory to the Seller;

(iii) such other documents, opinions and certificates that the Seller may have reasonably requested in connection with the consummation of the transactions contemplated by this Agreement;

(iv) a right of way agreement in substantially the form of Exhibit D attached hereto conveying transmission line rights-of-way over and upon each parcel of the Real Property upon which the Seller operates or maintains any electric power transmission line; and

(v) a certificate of corporate existence of the Buyer from the State of South Carolina.

(e) All consents required of any Person in order to effect the release of the Seller from future performance of the Contracts listed on Schedule 5.3 and all consents required of any Person in order to effect the consummation of the transactions contemplated hereby, including without limitation all consents required of any Utilities Commissions and Health Agencies, shall have been obtained, and no such consent shall contain as a condition to such consent that the Seller transfer or refund any part of the Final Purchase Price to any Person.

(f) The Buyer shall have paid the Estimated Purchase Price.

8.3 Conditions to the Obligations of the Buyer. The obligations of the Buyer to effect the transactions contemplated hereby shall be subject further to the fulfillment of the following conditions, any one or more of which may be waived by the Buyer:

(a) All representations and warranties of the Seller contained in this Agreement shall be true and correct in all material respects as of the Closing Date as though made as of such date (except as otherwise contemplated by this Agreement). The Seller shall have performed and complied in all material respects with all its covenants and agreements contained in this Agreement required to be performed and complied with by it at or prior to the Closing. The Buyer shall have received a certificate with respect to the matters set forth in this Section 8.3(a) signed on behalf of the Seller by an authorized officer.

(b) (i) All documents required to have been delivered by the Seller to the Buyer at or prior to the Closing shall have been delivered and (ii) all actions required to have been taken by the Seller at or prior to the Closing shall have been taken.

(c) The Buyer shall have received the legal opinions of the Seller and Robinson, Bradshaw & Hinson, P.A., together addressing the matters set forth on Exhibit C, each dated the Closing Date and in form and substance reasonably satisfactory to the Buyer.

(d) As of the Closing Date, the Buyer shall have received from the Seller the following documents:

(i) a bill of sale and an assignment and assumption agreement, in form and substance satisfactory to the Buyer.

(ii) special warranty deeds, in the form of the special warranty deed attached as Exhibit E hereto, conveying the Real Property, reserving the easements and rights of way described in Section 2.4(a), and granting the easements and rights of way described in Section 2.4(b);

(iii) the assignments of easements and rights of way, in the form of the assignment of easements and rights of way attached as Exhibit F hereto, conveying the Seller's rights to the Distribution System Easements and Rights of Way;

(iv) such other documents, opinions and certificates that the Buyer may have reasonably requested in connection with the proper and effective conveyance of the Retail Assets free and clear of all liens, claims, encumbrances, and restrictions

whatsoever (except for Permitted Liens), and the consummation of the other transactions contemplated by this Agreement; and

(v) a certificate of corporate existence of the Seller from the State of North Carolina.

ARTICLE IX

SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION

9.1 Survival of Representations. All representations, warranties, covenants and agreements made by the parties to this Agreement or pursuant hereto shall survive the Closing, but all claims made by virtue of such representations, warranties, covenants and agreements shall be made exclusively under, and subject to the limitations set forth in, this Article IX.

9.2 Seller's Agreement to Indemnify.

(a) Indemnification. Subject to the limitations, conditions and provisions set forth in this Article IX, the Buyer shall be entitled to recover from the Seller all losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or incurred by the Buyer, any members of its City Council, or any of its Affiliates, employees and agents (the "Buyer Indemnitees") (i) resulting from a breach of any covenant, agreement, representation or warranty of the Seller contained in this Agreement, or (ii) with respect to any Liabilities relating to the Retail Business that the Buyer does not assume pursuant to the terms of this Agreement (clauses (i) and (ii), collectively, the "Buyer Damages").

(b) Limitation of Liability. The Buyer's right to recover any Buyer Damages from the Seller shall be subject to all of the following limitations:

(i) The Buyer may not recover any Buyer Damages for breaches of representations or warranties until the aggregate amount of Buyer Damages exceeds the Indemnification Threshold, and any Buyer Damages shall be reimbursed by the Seller only to the extent of such excess over the Indemnification Threshold.

(ii) The Buyer may not recover any Buyer Damages on an aggregate basis in excess of thirty percent of the Final Purchase Price.

(iii) The Buyer shall have the right to recover only those Buyer Damages for breaches of representations or warranties as to which the Buyer has given the Seller written notice within one year after the Closing Date. Any written notice delivered by the Buyer to the Seller pursuant to this subparagraph (iii) shall set forth with specificity the basis of the claim for Buyer Damages and an estimate of the amount thereof.

(iv) All Buyer Damages shall be computed net of the present value of any income tax benefit resulting therefrom to the Buyer or any proceeds paid or payable as a result of any insurance coverage with respect thereto that reduces the Buyer Damages that would otherwise be sustained.

(v) Anything in this Agreement to the contrary notwithstanding, no shareholder, director, officer, Affiliate, employee or agent of the Seller shall have any personal liability to the Buyer or any other Persons as a result of the breach of any representation, warranty, covenant or agreement of the Seller contained herein.

(c) Condition of Indemnification. The right of the Buyer to be reimbursed for claims for Buyer Damages resulting from the assertion of liability by third parties ("Buyer Claims") shall be subject to the following additional terms and conditions:

(i) Within ten days after receiving notice thereof, the Buyer shall give the Seller written notice of any Buyer Claims together with a statement of any available information regarding such claim; provided, however, that any failure to give notice within such ten-day period shall not effect the Buyer Indemnitee's rights hereunder except to the extent such failure shall have prejudiced the Seller with respect to such claim. The Seller shall have the right to undertake the defense thereof by counsel of its own choosing. The Buyer may, by counsel, participate in such proceedings, negotiations or defense, at its own expense, but the Seller shall retain control over such litigation except as hereinafter set forth. In all such cases, the Buyer shall give reasonable assistance to the Seller, including making employees of the Buyer available without charge as reasonably requested.

(ii) If within ten days after receiving notice of any such Buyer Claim, the Seller fails to notify the Buyer of its intention to defend, or if the Seller at any time notifies the Buyer of its decision to abandon the defense, the Buyer shall (upon further notice to the Seller) have the right to undertake the defense, compromise or settlement of such Buyer Claim, subject to the right of the Seller to assume the defense of such Buyer Claim at any time prior to final settlement, compromise or determination thereof.

(iii) Without the prior written consent of the Buyer, the Seller shall not enter into any settlement of any Buyer Claim, if pursuant to or as a result of such settlement (i) injunctive or other equitable relief would be imposed against the Buyer or (ii) such settlement would lead to liability or create any financial or other obligation on the part of the Buyer for which the Buyer is not entitled to indemnification hereunder.

9.3 Buyer's Agreement to Indemnify.

(a) Indemnification. To the extent permitted by law, the Buyer agrees to indemnify, defend and hold the Seller and its shareholders, directors, officers, Affiliates, employees and agents harmless from and against all demands, claims, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or suffered or incurred by any of such Persons (i) resulting from a breach of any covenant, agreement, representation or warranty of the Buyer contained in this Agreement or (ii) with respect to any of the Assumed Liabilities (clauses (i) and (ii), collectively, the "Seller Damages").

(b) Limitation of Liability. The Seller's right to recover any Seller Damages from the Buyer shall be subject to all of the following limitations:

(i) The Seller may not recover any Buyer Damages for breaches of representations or warranties until the aggregate amount of Seller Damages exceeds the Indemnification Threshold and any Seller Damages shall be reimbursed by the Buyer only to the extent of such excess over the Indemnification Threshold.

(ii) The Seller may not recover any Seller Damages on an aggregate basis in excess of thirty percent of the Final Purchase Price.

(iii) The Seller shall have the right to recover only those Seller Damages for breaches of representations or warranties as to which the Seller has given the Buyer written notice within one year after the Closing Date. Any written notice delivered by the Seller to the Buyer pursuant to this subparagraph 9.2(b)(iii) shall set forth with specificity the basis of the claim for Seller Damages and an estimate of the amount thereof.

(iv) All Seller Damages shall be computed net of the present value of any income tax benefit resulting therefrom to the Seller or any proceeds paid or payable as a result of any insurance coverage with respect thereto that reduces the Seller Damages that would otherwise be sustained.

(v) Anything in this Agreement to the contrary notwithstanding, no member of the Buyer's City Council nor any officer, Affiliate, employee or agent of the Buyer and shall have any personal liability to the Seller or any other Persons as a result of the breach of any representation, warranty, covenant or agreement of the Buyer contained herein.

9.4 Remedies. Other than the Seller's right to keep the Deposit as set forth in this Agreement, the Buyer and the Seller understand and agree that, absent intentional fraud, their respective rights to indemnification and other rights under Article IX shall constitute their sole and exclusive remedy against each other with respect to any claim of the Buyer, the Seller or their respective Affiliates arising under or related to this Agreement, the Transaction Agreements or the transactions contemplated hereby.

ARTICLE X

TERMINATION

10.1 Termination. This Agreement may be terminated:

- (a) at any time by mutual written consent of the Seller and the Buyer;
- (b) by either the Seller or the Buyer if the Closing shall not have occurred on or before April 17, 2002 (the "Termination Date"); provided, however, that the right to terminate this Agreement under this Section 10.1(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement (including without limitation Section 7.7) has to any extent been the cause of, or resulted in, the failure of the Closing to occur on or before the Termination Date;

(c) by either the Seller or the Buyer if any Governmental Authority (i) shall have issued an order, decree or ruling or taken any other action (which the parties shall have used commercially reasonable efforts to resist, resolve or lift, as applicable, in accordance with Section 7.7) permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and nonappealable or (ii) shall have failed to issue an order, decree or ruling or to take any other action (which order, decree, ruling or other action the parties shall have used commercially reasonable efforts to obtain, in accordance with Section 7.7), in each case (i) and (ii) that is necessary to fulfill the conditions set forth in Section 8.1(c), as applicable, and such denial of a request to issue such order, decree, ruling or take such other action shall have become final and nonappealable; provided, however, that the right to terminate this Agreement under this Section 10.1(c) shall not be available to any party whose failure to comply with Section 7.7 has to any extent been the cause of such action or inaction;

(d) by the Buyer in accordance with Section 7.5 or 7.6;

(e) by the Seller in accordance with Section 7.5 or 7.6; and

(f) by the Buyer if the Seller refuses to allow the Buyer to undertake any reasonable environmental investigation in accordance with Section 7.5.

10.2 Procedure and Effect of Termination or Failure to Close.

(a) In the event of termination of this Agreement and abandonment of the transactions contemplated hereby by the Seller or the Buyer pursuant to Section 10.1, prompt written notice thereof shall be given to the other party and this Agreement shall terminate and the transactions contemplated hereby shall be abandoned, without further action by any of the parties hereto. If this Agreement is terminated as provided herein:

(i) All further obligations of the parties hereunder shall terminate, except the obligations contained in Sections 7.2(b) and 11.2 shall survive;

(ii) All filings, applications and other submissions relating to the transactions contemplated by this Agreement shall, to the extent practicable, be withdrawn from the agency or Person to which made; and

(iii) No such termination shall relieve any party from any liability or damages resulting from a party's violation or breach of this Agreement, and each party hereto shall be entitled to seek any remedy to which such party may be entitled at law or in equity for any such violation or breach of this Agreement.

(b) The Seller and the Buyer agree that if this Agreement is terminated by the Seller pursuant to Section 10.1(b) or 10.1(c) and such termination right arose, in whole or in part, as a result of the Buyer's failure to fulfill any obligation under this Agreement (including its failure to fulfill any condition to Closing set forth in Section 8.2), as a result of an act or omission by the Buyer that causes the Seller to fail to fulfill any obligation under this Agreement (including the Seller's failure to fulfill any condition to Closing set forth in Section 8.3) or as a result of an act or omission by the Buyer that causes any of the conditions to Closing set forth in Section 8.1 not

to be fulfilled, the Seller shall be entitled to keep the Deposit in order to compensate and reimburse Seller for time expended and expenses incurred by the Seller in connection with this Agreement. Because the Seller's actual damages and expenses would be difficult to ascertain if the transactions contemplated by this Agreement fail to close, the Seller and the Buyer agree that the amount of the Deposit is a reasonable estimate of such damages and expenses. If this Agreement is terminated and the Seller is not entitled to keep the Deposit pursuant to the terms of this Section 10.2(b), the Seller shall promptly return the Deposit to the Buyer.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Submission to Jurisdiction. Each of the parties hereto hereby irrevocably consents, to the maximum extent permitted by law, that all actions and proceedings relating to this Agreement or the transactions contemplated hereby shall be brought in any court of general jurisdiction in Greenville or Richland County, South Carolina, or in the United States District Court for the District of South Carolina; provided, however, that any disagreement provided to be resolved by accountants hereunder shall be so resolved, which resolution shall be conclusive and binding in such courts. Each of the parties hereto waives any objection that it may have to the conduct of any action or proceeding in any such court based on improper venue or *forum non conveniens*, waives personal service of any and all process upon it, and consents that all service of process may be made by mail or courier service directed to it at the address set forth herein and that service so made shall be deemed to be completed upon the earlier of actual receipt or ten days after the same shall have been posted. Nothing contained in this Section 11.1 shall affect the right of any party hereto to serve legal process in any other manner permitted by law.

11.2 Expenses. Whether or not the transactions contemplated hereby are consummated, (i) all filing fees and other costs required to be paid to obtain any consent required of any Person to consummate the transactions contemplated hereby will be borne by the Buyer; and (ii) except as otherwise provided herein, all other costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including the preparation and execution of this Agreement and performance of the transactions contemplated hereby, and all fees and expenses of investment bankers, finders, brokers, agents, representatives, consultants, counsel and accountants will be paid by the party incurring such costs and expenses.

11.3 Further Assurances. Subject to the terms and conditions of this Agreement, each of the parties hereto will use all commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement.

11.4 Amendment and Modification. This Agreement may be amended, modified or supplemented only by written agreement of the Seller and the Buyer at any time prior to the Closing Date with respect to any of the terms contained herein.

11.5 Waiver of Compliance, Consents. Except as otherwise provided in this Agreement, any failure of any of the parties to comply with any obligation, representation,

warranty, covenant, agreement or condition herein may be waived by the party entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section.

11.6 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given when delivered by hand or by facsimile transmission or mailed by registered or certified mail (return receipt requested), postage prepaid, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice; provided that notices of a change of address shall be effective only upon receipt thereof):

(a) If to the Seller, to:

Duke Energy Corporation
Wachovia Building, 13th Floor
400 South Tryon Street
Charlotte, North Carolina 28202
Attention: Robert S. Lilien

Facsimile: (704) 382-1867

Copies to:

Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246
Attention: Kent J. McCready

Facsimile: (704) 378-4000

(b) If to the Buyer, to:

City of Anderson
401 South Main Street
Anderson, South Carolina 29624
Attention: John R. Moore, Jr.

Facsimile: (864) 231-2200

Copies to:

McNair Law Firm, P.A.
Bank of America Plaza
7 North Laurens Street, Suite 600
Greenville, South Carolina 29601
Attention: Daniel R. McLeod Jr.

Facsimile: (864) 271-4015

11.7 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other party or parties, as the case may be.

11.8 Governing Law. The execution, interpretation and performance of this Agreement shall be governed by the internal laws and judicial decisions of the State of South Carolina.

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

11.10 Severability. If any provision of this Agreement shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect.

11.11 Parties in Interest. Nothing in this Agreement, express or implied, other than as otherwise specifically provided herein, is intended to or shall confer upon any Person other than the parties hereto any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

11.12 Release of Seller. The Buyer acknowledges that the Retail Assets are being excluded from the sale of the Seller's water system to the Joint System and the Buyer hereby releases the Seller from any liabilities or obligations relating to any claims or disputes with respect to whether any particular asset is or is not included in the Retail Assets or in the assets sold to the Joint System.

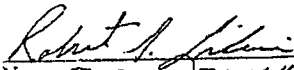
11.13 Entire Agreement. This Agreement, including the Exhibits and Schedules hereto and the documents delivered pursuant to this Agreement, embody the entire agreement and understanding of the parties hereto in respect of the subject matter hereof. The Exhibits and Schedules hereto are an integral part of this Agreement and are incorporated by reference herein. The Buyer acknowledges that the Seller has not made any, and makes no, promises, representations, warranties, covenants or undertakings, other than those expressly set forth herein. This Agreement supersedes all prior agreements and understandings between the parties with respect to the transactions contemplated by this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

THE SELLER:

DUKE ENERGY CORPORATION

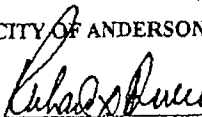
By:


Name: ROBERT E. LICHEN
Title: SR. V.P.

THE BUYER:

THE CITY OF ANDERSON

By:


Name: RICHARD A. SHIRLEY
Title: MOYOR

123456789

City of Anderson Atty.

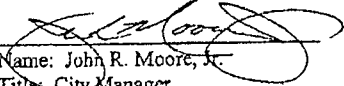
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THE BUYER:

THE CITY OF ANDERSON

By:


Name: John R. Moore, Jr.
Title: City Manager

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Greenville, 162891

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EXHIBIT A

RETAIL ASSETS

The Retail Assets consist of the following:

(a) All water mains and pipes used in the Seller's water system in Anderson County, South Carolina that are (i) owned by the Seller or in which the Seller has an ownership interest and (ii) located within the area described on Schedule 1 attached hereto, but excluding the water mains and pipes described on Schedule 2 attached hereto (the water mains and pipes that are included in the Retail Assets are referred to herein as the "Retail Mains and Pipes");

(b) All recorded and unrecorded water distribution and water transmission easements, rights of way and rights of encroachment to the extent the same contain (but only to the extent the same contain) Retail Mains and Pipes and are: (i) owned by the Seller or in which the Seller has an ownership interest; (ii) located within the area described on Schedule 1 attached hereto; and (iii) used by the Seller in connection with the Retail Mains and Pipes;

(c) All fire hydrants, meters and valves that are (i) owned by the Seller or in which the Seller has an ownership interest and (ii) connected to and served by the Retail Mains and Pipes;

(d) The fixed assets listed on Schedule 3 attached hereto;

(e) The Real Property (including the improvements thereon) listed on Schedule 4 attached hereto;

(f) All of the Seller's rights under all Contracts relating exclusively to the Retail System, including those Contracts listed on Schedule 5 attached hereto, other than any rights arising as a result of the breach of any such Contracts prior to the Closing Date and other than any Excluded Contracts;

(g) All of the Seller's books, files, records, documents, data, plans, proposals and all other recorded knowledge, whether in written, electronic, visual or other form, related exclusively to the Retail Business; and

(h) All Accounts Receivable.

The Retail Assets shall not include any other assets including (i) any water main or pipe associated with the Duke Water System to the extent the same is located outside of the geographic area described on Schedule 1 attached hereto; (ii) any land, building or structure, water storage tank or facility or associated pumping and related equipment not otherwise included above in the Retail Assets, including the Duke Water System water treatment plant and related assets; and (iii) any easement, right of way or other right appurtenant to or otherwise associated with any of the assets described in (i) and (ii) in this sentence.

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Schedule 1
to
Exhibit A



Description and Geographic Area of Retail Mains and Pipes

The retail mains and pipes are located within the retail service area shown in gray on the attached map and as described below:

Service Area Boundary Description: Beginning where U.S. Highway 76 & S.C. Highway 28 crosses Lake Hartwell, thence eastwardly approximately four tenths of a mile along the Six and Twenty Arm of Lake Hartwell to the eastern property line of Middleton Shores S/D, thence southwardly along said property line to Old Mill Road, thence southeastwardly along Old Mill Road and extending one lot deep on the southern side of Old Mill Road until its intersection with U.S. 178, crossing Brown Road and continuing to Fritz Drive, thence northeastwardly along Fritz Drive approximately three tenths of a mile, then due east approximately three tenths of a mile to a ditch, thence northwardly along said ditch approximately three tenths of a mile to a tributary of Town Creek, thence southeastwardly along said tributary approximately four tenths of a mile to a point being common with the Anderson City Limits, thence northeastwardly approximately four tenths of a mile to the intersection of Kings Road and Hobson Road, thence southeastwardly along Hobson Road approximately six tenths of a mile to the property line of Peppertree S/D, thence southwestwardly, southeastwardly, and northeastwardly, all along the boundary of Peppertree S/D and back to Hobson Road, thence continuing southeastwardly along Hobson Road approximately two tenths of a mile to Concord Road, thence northeastwardly along Concord Road to Edgebrook Drive, thence southeastwardly along Edgebrook Drive approximately seven tenths of a mile, thence due south approximately four tenths of a mile to the curve in Cardinal Circle, thence along Cardinal Circle to the property line of Marcdon Place S/D, thence along the property line boundaries of Marcdon Place S/D in westerly, northwesterly, southwesterly and southeasterly directions to the western most property line of Cardinal Park, and thence along western most Cardinal Park property line to Reed Road, thence eastwardly along Reed Road to S.C. Highway 81, thence southwardly along S.C. Highway 81 approximately one fourth of a mile to Simpson Road, thence along the property line boundary of the Bi-Lo Shopping Center in southwesterly, southeasterly and northeasterly directions back to Simpson Road approximately two tenths of a mile from S.C. Highway 81, thence southeastwardly along Simpson Road to Calhoun Street Extension, thence southwestwardly along Calhoun Street Extension approximately four tenths of a mile to a branch of Bailey Creek, thence southeastwardly along the branch through Rankins Lake to Bailey Creek, thence southwestwardly along Bailey Creek to Rogers Road, thence eastwardly along Rogers Road to Old Williamston Road, thence southwestwardly along Old Williamston Road approximately three tenths of a mile to Highland Acres S/D, thence approximately one mile along the western property line of Highland Acres S/D crossing Rocky River (*ending common boundary with Hammond and beginning with Broadway*) and along the northeastern property line of Cedar Ridge S/D to U.S. Highway 29, thence northeastwardly along U.S. Highway 29 to Plantation Road, thence southwardly along Plantation Road to Bellhaven Road, thence eastwardly along

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Bellhaven Road to Cypress Lane, thence southwardly along Cypress Lane to Bolt Drive, thence northwestwardly along Bolt Drive back to Plantation Road and including Forest Hill Chapel, thence southwardly along Plantation Road to Sansbury Drive, thence northwestwardly along Sansbury Drive to Fairfield Drive, thence southwestwardly along Fairfield Drive to U.S. Highway 76 & 178, thence northwestwardly approximately three tenths of a mile along U.S. Highway 76 & 178 to the southernmost property boundary of Anderson Garden Apartments (*ending common boundary with Broadway and beginning with Homeland Park*), thence southwestwardly along said property line to Rocky River, thence northwestwardly along Rocky River to a branch stream located behind New Silverbrook Cemetery, thence southwestwardly approximately six tenths of a mile along said branch to White Street Extension, thence northwestwardly along White Street Extension to Shockley Ferry Road, thence northeastwardly along Shockley Ferry Road approximately four tenths of a mile to Cemetery Road, thence northwestwardly along Cemetery Road approximately one tenth of a mile to the Piedmont Northern Railroad rights-of-way, thence southwestwardly along said railroad rights-of-way approximately eight tenths of a mile to S. McDuffie Street, thence northwestwardly along S. McDuffie Street to Pecan Drive, thence along Pecan Drive to S. Main Street, thence southwardly approximately three and six tenths miles along S. Main Street, Hunt Street, Hillman Drive, and then cross country to and including all of the Wellington Mill property and to and including all of the Owens Corning Fiber Plant property and then back to Major Road, thence northwestwardly along Major Road approximately one tenth of a mile to the intersection of S.C. Highway 28 Bypass and S. Murray Avenue, thence northwestwardly along S.C. Highway 28 Bypass to Sayre Street, thence southwestwardly approximately two and one half miles along Sayre Street and U.S. Highway 29 down to and including the BASF Plant property and Michelin Plant property and then back to U.S. Highway 28 Bypass, thence northwestwardly approximately six tenths of a mile to Generostee Creek, thence southwestwardly approximately eight tenths of a mile to a branch of Generostee Creek (*ending common boundary with Homeland Park and beginning with West Anderson*), thence northwestwardly along said branch to Monitor Drive, thence westwardly along Monitor Drive to Y'all Road, thence northwestwardly along Y'all Road to Dobbins Bridge Road, thence in a northeasterly direction along Dobbins Road on the southeastern side of Dobbins Bridge Road to the western most entrance of Greenbrier Subdivision thence in a westerly direction along the northside of Dobbins Bridge Road to Michelin Blvd., thence northeastwardly along Michelin Boulevard to Three Mile Creek, thence northeastwardly along Three Mile Creek to S.C. Highway 24, thence westwardly along S.C. Highway 24 to Warner Road, thence northwardly along Warner Road to Standridge Road, thence westwardly along Standridge Road to Fretwell S/D, thence northwestwardly, southwestwardly and southeastwardly all along the boundaries of said S/D back to Standridge Road, thence westwardly along Standridge Road to New Prospect Church Road, thence northwestwardly approximately three tenths of a mile to Five Mile Creek, thence northeastwardly along Five Mile Creek to Centerville Road, thence northwestwardly along Centerville Road crossing Whitehall Road to Gerrard Road, thence northerly along Gerrard Road to Dixon Road, thence northwestwardly along Dixon Road to Dunn Road, thence northerly along Dunn Road to Old Pearman Dairy Road and the Southern Railroad tracks and rights-of way, thence northerly along the Southern Railroad rights-of-way to Lake Hartwell, and thence northeastwardly along the Six and Twenty Arm of Lake Hartwell

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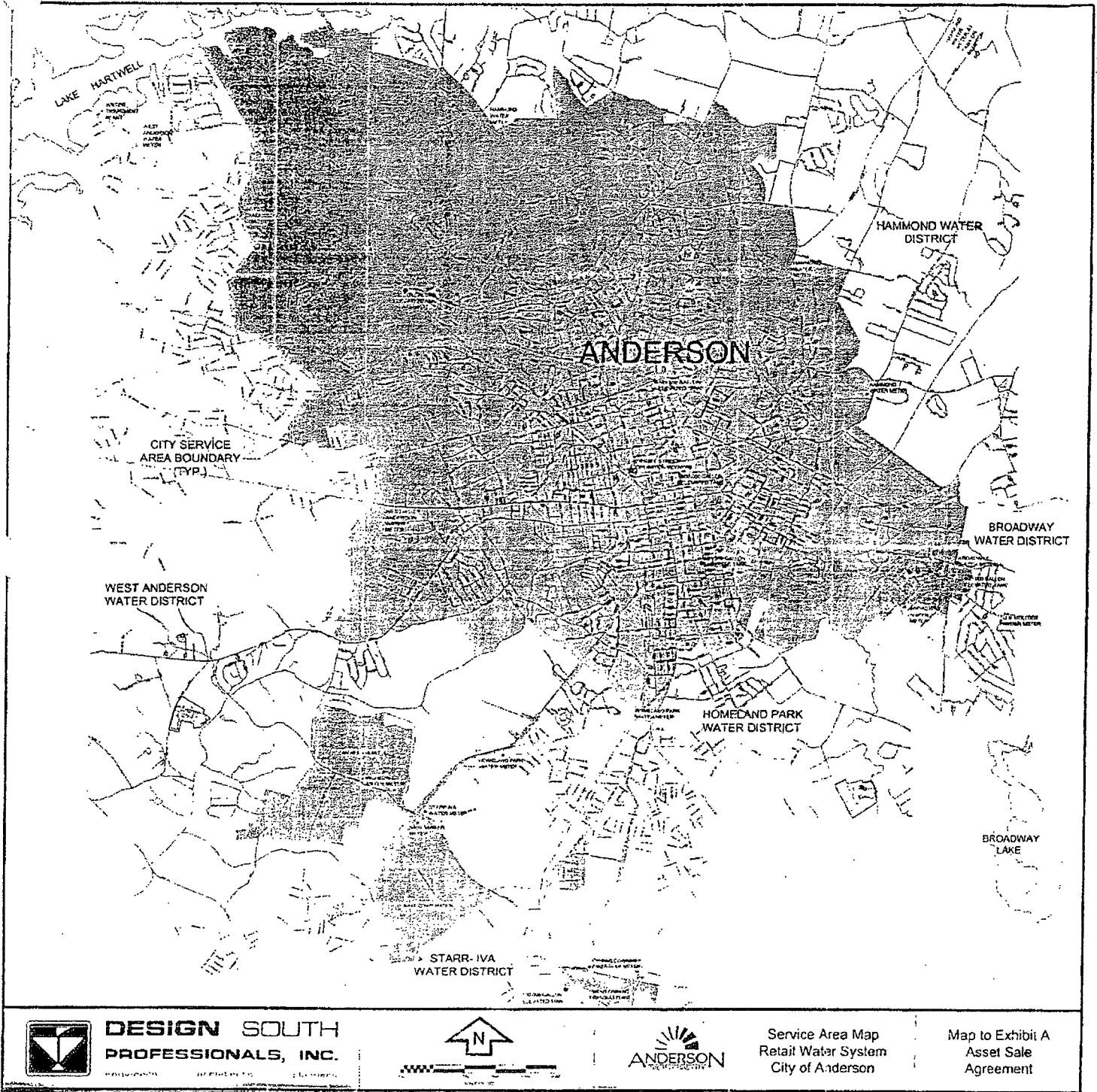
back to where U.S. Highway 76 & S.C. Highway 28 crosses Lake Hartwell.

Because the map attached hereto which depicts the retail service area of the City of Anderson may not be drawn to scale, in the event of a discrepancy between such map and the description provided above, such description shall control the actual retail service area boundary.

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Schedule 2
to
Exhibit A

Excluded Mains and Pipes

The following mains are excluded from the conveyance to the Buyer:

- (a) 30" line from the Water Filtration Plant (located at 998 Hunters Trail, Anderson, South Carolina) to S.C. 28 Bypass along Old Pearman Dairy Road, Dixon Road and Whitehall Road.
- (b) 24" line from the Water Filtration Plant to the vicinity of Lake Hartwell and Clemson Boulevard along Old Pearman Dairy Road, S.C. 28 Bypass and Clemson Boulevard.
- (c) 16" line along S.C. 28 Bypass from the 30" line on Whitehall Road to the 24" line on Old Pearman Dairy Road.

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Schedule 3
to
Exhibit A

Vehicle List for City/Distribution

<u>VEHICLE #</u>	<u>TYPE VEHICLE</u>	<u>Taq #</u>	<u>Serial #</u>
00060	87 REID EQ HAUL PINTAL BALL TRL	PT10942	11RF25200H1010990
04178	88 DITCHWITCH TRENCHER		6E0675
05667	86 CLARK FORKLIFT		CP138I00476415FA
06214	77 HOMEMADE	PT15470	SCHD44701
07125	89 BMC HYDRA HAMMER		11594
09810	96 PROTECT-O SIGN/DIRECT		0696A40

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Schedule 4
to
Exhibit A

Real Property

1. Fifty percent interest in Water Office/Operations, 314 Tribble Street, Anderson, South Carolina (Duke Parcel No. 58851, approx. 4.91 acres; Duke Parcel No. 45531, approx. 1.76 acres; Duke Parcel No. 40940, approx. 0.20 acres; and Duke Parcel No. 45637, approx. 0.74 acres; less an approx. 0.50 acre tract of Duke Parcel No. 45637 which is occupied by the Seller's power distribution substation and not in connection with the operation of the Retail Business and which will be subdivided and retained by the Seller).¹
2. Whitehall Road Tank, Whitehall Road & Singer Road, Anderson, South Carolina (Duke Parcel No. 41525, approx. 0.69 acres).
3. Mauldin Street Tank, Mauldin Street & North Fant Street, Anderson, South Carolina (Duke Parcel No. 57789, approx. 0.48 acres).
4. Orr Street Tank, Orr Street & Manning Street, Anderson, South Carolina (Duke Parcel No. 45706, approx. 0.53 acres).
5. Fant Street Tank, South Fant Street, Anderson, South Carolina (Duke Parcel No. 57788, approx. 0.49 acres).
6. Bolt Drive Tank, Bolt Drive & Cypress Lane, Anderson, South Carolina (Duke Parcel No. 41038, approx. 0.85 acres).
7. Owens Corning Fiberglas Tank, Starr Highway (Highway 81 South), Anderson, South Carolina. The parcel on which this tank is located, Duke Parcel No. 44007, approx. 40.00 acres, will be subdivided and the Seller will retain all of the acreage for this parcel except for the portion on which the water tank and its enclosure fence are located. The portion to be retained by the Seller is not occupied by the Seller in connection with the operation of the Retail Business.
8. Homeland Park Booster Station, 3238 South Main Street at Hillman Drive, Anderson, South Carolina (Duke Parcel No. 45621, approx. 0.02 acres).

¹ The Buyer is to receive a 50% interest as a tenant in common with the Joint System.

Schedule 5
to
Exhibit A

Certain Contracts and Arrangements

Water Service Agreements

1. Memorandum of Agreement, dated April 4, 1967, by and between Duke Power Company and Dow Badische Company.
2. Water Service Agreement, dated April 1, 1990, by and between Duke Power Company and Owens-Corning Fiberglas Corporation.
3. Water Service Agreement, dated April 7, 1995, by and between Duke Power Company and Plastic Omnium Industries, Inc.
4. Memorandum of Agreement, dated December 12, 1977, by and between Duke Power Company and Stuafter Chemical Company.
5. Agreement, dated August 10, 1987, by and between Duke Power Company and Culp Woven Velvets, Inc.
6. Water Service Agreement, dated July 3, 2000, by and between Duke Water Systems and Michelin North America, Inc.

Other Contracts and Agreements

1. All outstanding commitments made to extend service exclusively related to the Retail Business and all existing and unexpired refund agreements exclusively related to the Retail Business entered into pursuant to the Duke Power Company Water Department Service Regulations, dated July 10, 1990, filed with the South Carolina Public Service Commission.
2. Fire Protection Water Service Agreement, dated January 27, 1989, by Duke Power Company and Anderson Tie Station.²

² The rights and obligation of Anderson Tie Station are to remain with the Seller.

EXHIBIT B

FORM OF OPINION OF COUNSEL TO BUYER

Terms not otherwise defined herein shall have the meanings given to them in the Agreement.

1. The Buyer is a municipality duly incorporated, validly existing and in good standing under the laws of the State of South Carolina. The Buyer has all requisite governmental power and authority to enter into and perform its obligations under the Transaction Agreements.

2. The execution, delivery and performance by the Buyer of each of the Transaction Agreements have been duly authorized by all requisite governmental and corporate action. The Buyer has duly executed and delivered each of the Transaction Agreements and each such Transaction Agreement constitutes a legal, valid and binding obligation of the Buyer, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or other laws of general applicability affecting creditors' rights and by general principles of equity that may limit the specific performance of particular provisions.

3. The Buyer's execution and delivery of the Transaction Agreements, and the consummation by the Buyer of the transactions contemplated thereby, will not (a) violate any provision of law, statute, rule or regulation, or any ruling, writ, injunction, order, judgment or decree of any court, administrative agency or other governmental body applicable to it, or any of its properties or assets, or (b) violate its municipal charter or bylaws.

4. All filings and registrations with, notification to, and permits, authorizations, consents and approvals of, all governmental agencies or authorities required to permit consummation by the Buyer of the transactions contemplated by the Agreement have been made or obtained.

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EXHIBIT C

FORM OF OPINION OF COUNSEL TO SELLER

Terms not otherwise defined herein shall have the meanings given to them in the Agreement.

1. The Seller (i) is duly incorporated, validly existing and in good standing under the laws of the State of North Carolina, (ii) is duly qualified and in good standing to do business as a foreign corporation in the State of South Carolina, and (iii) has all requisite corporate power and authority to own, lease and operate its properties, to carry on its business as presently conducted and to enter into and perform its obligations under the Transaction Agreements.

2. The execution, delivery and performance by the Seller of each of the Transaction Agreements have been duly authorized by all requisite corporate action on the part of the Seller. Each of the Transaction Agreements has been duly executed and delivered by the Seller and constitutes a legal, valid and binding obligation of the Seller enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or other laws of general applicability affecting creditors' rights and by general principles of equity that may limit the specific performance of particular provisions.

3. The Seller's execution and delivery of the Transaction Agreements and the consummation by the Seller of the transactions contemplated thereby will not (a) violate any provision of law, statute, rule or regulation, or any ruling, writ, injunction, order, judgment or decree of any court, administrative agency or other governmental body applicable to it, or any of its properties or assets, (b) except as disclosed on Schedule 5.3 to the Agreement, conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute (with due notice or lapse of time, or both) a default (or give rise to any right of termination, cancellation or acceleration) under, or result in the creation of any Lien upon any of the Retail Assets under, or require the consent of any party to, any Contract to which it is a party that is listed in Schedule 5.5 to the Agreement or (c) violate its articles of incorporation or bylaws.

4. All filings and registrations with, notification to, and permits, authorizations, consents and approvals of, all governmental agencies or authorities required to permit consummation by the Seller of the transactions contemplated by the Agreement have been made or obtained.

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EXHIBIT D

PREPARED BY:
Jefferson D. Griffith

Parcel No.
Project No.

STATE OF SOUTH CAROLINA)

RIGHT OF WAY AGREEMENT

COUNTY OF ANDERSON)

THIS INDENTURE, made and entered into this ____ day of _____, 2002, by and between [City and County System], a _____ of the State of South Carolina hereinafter called "Grantor", (whether one or more), and DUKE ENERGY CORPORATION, a North Carolina corporation, hereinafter called "Grantee";

WITNESSETH:

That Grantor, in consideration of Ten Dollars (\$10.00) and other valuable considerations paid by Grantee, the receipt of which is hereby acknowledged, does grant and convey unto Grantee, its successors and assigns, a perpetual easement and right of way, for the purposes and subject to the terms and conditions set out below, over and across the land of Grantor (hereinafter "Premises") lying in the State and County aforesaid and more particularly described as BEING all of Tract #1, a 7.10 acre tract, as shown on that plat entitled "Duke Energy Corporation Boundary Survey For Tribble St. Project" recorded in Plat Book _____, Page _____ in the Anderson County Public Registry (the "Plat").

Deed recorded in Deed Book _____ at page _____

The easement and right of way herein granted by Grantor to Grantee, its successors and assigns, over the Premises above described consist of the following:

- a) Grantee's Use of Right of Way Strip Grantor grants to Grantee for itself and its successors and assigns a perpetual easement within the Right of Way Strip (as defined herein) to enter and construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, maintain and use multiple lines (either overhead or underground, or both) for the purpose of transporting electricity and for communications use. As used herein, the "Right of Way Strip," shall refer to a 68' strip labeled as "68' Right-of-Way To Be Reserved 0.88 Ac. Total" containing 0.88 acre, as shown on the Plat. A "line" may consist of overhead and/or underground wires, conductors, cables, conduits and other necessary apparatus, fixtures, hardware and appliances deemed necessary by Grantee for the transportation of electrical energy and/or for the communications purposes of Grantee or its successors or assigns, including, without limitation, conduits, static wires, guy wires, anchors, grounds, footings, foundations, crossarms, insulators, electronic equipment and other associated equipment. Overhead lines or cables may be supported by single or multiple rows of towers, poles or other structures (without limitation as to number) placed at necessary and proper intervals upon the Right of Way Strip. In connection with Grantee's rights within the Right of Way Strip, Grantee shall have the right (i) to clear and keep the Right of Way Strip free of trees (except fruit trees below fifteen (15) feet in height), structures, buildings, mobile homes and trailers, human graves, wells, swimming pools, septic or storage tanks (whether above ground or below ground), flammable materials, building materials, wrecked or disabled vehicles, refuse of any type and all other objects (whether above ground or below ground) which may, in Grantee's opinion, interfere in any way with or endanger Grantee's lines or the maintenance and operation of Grantee's lines, (ii) to install and maintain fences and gates in the Right of Way Strip to afford Grantee access to the Right of Way Strip, and (iii) to plant and maintain shrubs and ornamental trees within the Right of Way Strip at locations selected by Grantee.

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- (b) Grantor's Reserved Use. Grantor shall be entitled to use the Right of Way Strip for all purposes not inconsistent with the rights and easements herein granted to Grantee, including (i) the right to cultivate crops, plants, shrubs and fruit trees that do not exceed fifteen (15) feet in height, (ii) the right to pave, improve and use the Right of Way Strip for temporary automobile parking, provided Grantor installs adequate protective barriers for Grantee's structures, (iii) the right to use the Right of Way Strip for recreation, provided no structures are erected, (iv) the right to retain existing roads and drives and sewer, water and other utility lines within the Right of Way Strip at their existing locations as of the date of this instrument, (v) the right to construct and maintain new roads and drives and new water, sewer and other utility lines crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip at an angle of not less than thirty (30) degrees, (B) no portion of such facilities is located within twenty (20) feet of any of Grantee's supporting structures, and (C) such facilities are constructed in strict compliance with all clearance requirements of the National Electrical Safety Code and all other regulations and ordinances then applicable to electrical conductors, (vi) the right to maintain existing fences and the right to build new fences on the Right of Way Strip, provided any such new fences are located at least ten (10) feet from Grantee's structures, and (vii) the right to excavate, grade and fill, provided such activity is completed in accordance with good engineering practices, does not endanger Grantee's structures, including the foundations of such structures, and meets all clearance requirements of the National Electrical Safety Code and all other regulations and ordinances then applicable to electrical conductors.
- (c) Grantee's Use of Premises outside of the Right of Way Strip. Grantor further grants to Grantee for itself, its successors and assigns the right to enter upon the Premises for the following purposes and uses:
- (1) Grantee and Grantee's successors and assigns relative to the Right of Way Strip may cut, fell and remove any and all trees on the Premises now or in the future that are tall enough, in Grantee's opinion, to fall on a line or other facility or structure within the Right of Way Strip.
 - (2) Grantee and Grantee's successors and assigns relative to the Right of Way Strip may enter upon the Premises at any time and from time to time to gain access (for vehicles, equipment and pedestrians) to the Right of Way Strip or to cut, fell and remove danger trees from the Premises (pursuant to Paragraph (c)(1) herein); and an easement is hereby granted to Grantee for such purpose. Grantee's right to enter the Premises (for which an easement is hereby granted to Grantee) to access the Right of Way Strip shall be confined to streets, roads and driveways that exist when Grantee's entry is necessary, provided such existing streets, roads and driveways are adequate for Grantee's purposes and afford Grantee reasonably convenient and feasible access to the Right of Way Strip. If streets, roads and driveways satisfying the requirements in the immediately preceding sentence do not exist at such time, Grantee shall be entitled to use (and an easement is hereby reserved for such purpose) the most reasonably convenient and feasible access route or routes over the Premises to access the Right of Way Strip (and Grantee shall be entitled to construct and maintain a roadway or driveway for such purpose within such route or routes).
- (d) Antennas and Related Equipment. Grantor grants to Grantee for itself and its successors and assigns the following rights:
- (1) A perpetual easement (i) to modify, enlarge and/or extend any one or more towers, poles or other support structures now or hereafter installed within the Right of Way Strip by Grantee for its electric operations and to use same for the attachment and use of antenna or other equipment or devices for wireless or other communications, and (ii) to use one or more parcels of land, having dimensions not exceeding twenty-five (25) feet by twenty-five (25) feet and located adjacent to or at the base of each such tower, pole or other support structure

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which is referred to in the immediately preceding clause (i) and which is hereafter used by Grantee for the attachment and use of antenna or other equipment or devices for wireless or other communications, to construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, maintain and use electronic equipment and other equipment necessary or desirable in connection with wireless or other communications from and to any antenna or other equipment or device installed upon such tower, pole or other support structure. If and to the extent such communications equipment areas referenced in clause (ii) in the immediately preceding sentence are hereafter required by Grantee, Grantee shall be entitled to designate the location of such areas, and such areas shall be located entirely within the Right of Way Strip. In the event Grantee shall relocate within the Right of Way Strip any tower, pole or other support structure used for communications purposes, then in such event Grantee may relocate its antenna and other communications equipment to the relocated site of such tower, pole or other support structure and may designate an appropriate twenty-five (25) foot by twenty-five (25) foot area (as contemplated above) at such new location.

- (2) A perpetual easement to enter upon the Premises at any time and from time to time to gain access (for vehicles, equipment and pedestrians) to the communications equipment areas referenced in Paragraph (d)(1) herein. Grantee's right to enter the Premises to access such communications equipment areas shall be confined to streets, roads and driveways that exist when Grantee's entry is necessary, provided such existing streets, roads and driveways are adequate for Grantee's purposes and afford Grantee reasonably convenient and feasible access to such areas. If streets, roads and driveways satisfying the requirements in the immediately preceding sentence do not exist at such time, Grantee shall be entitled to use (and an easement is hereby granted for such purpose) the most reasonably convenient and feasible access route or routes over the Premises to access such communications equipment areas (and Grantee shall be entitled to construct and maintain a roadway or driveway for such purpose within such route or routes). With regard to any access route or routes that have been established over the Premises pursuant to this Paragraph (d)(2) at any given time and that are used for access to communications equipment areas, Grantor shall be entitled, at Grantor's sole cost and expense and after obtaining Grantee's prior written approval, to relocate said access route or routes (and Grantee's corresponding easement rights therein) elsewhere on the Premises to accommodate Grantor's reasonable needs for the development or use of the Premises, but in such case, Grantor also must construct and install (at Grantor's sole cost and expense and without interrupting access to the relevant communications equipment) a replacement roadway or driveway and the replacement roadway or driveway, in each instance, must be comparable to the roadway or driveway that is being replaced. Grantee's written approval of any proposal by Grantor to relocate the access route or routes pursuant to the immediately preceding sentence shall not be unreasonably withheld; provided, however, Grantee withholding or denial of such written consent shall be deemed reasonable if reasonably convenient and feasible access to and from the communications equipment areas is not afforded by the proposed replacement access route or routes.
- (3) A perpetual easement to construct, reconstruct, replace, rebuild, inspect, maintain and use underground telephone and electrical lines to serve communications equipment within the Right of Way Strip and such underground lines may be installed along and generally parallel to the access route or routes established pursuant to Paragraph (d)(2) herein. Provided, however, with respect to any such access route or routes that are hereafter relocated by Grantor (as permitted in Paragraph (d)(2) herein), Grantor also must relocate (at Grantor's sole cost and expense and without interrupting service to communications equipment within the Right of Way Strip) all telephone and electrical lines previously installed (as contemplated above in this Paragraph (d)(3)) along or in the vicinity of the access route or routes that are being relocated by Grantor.

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- (c) Grantee's Repair Obligation. Grantee shall repair damage to the Premises, including roads, driveways and fences, resulting directly from Grantee's exercise of its rights granted hereunder. Provided, however, all trees which Grantee is entitled to cut and remove from the Premises pursuant to Paragraph (c)(1) herein shall, upon such cutting, become the property of Grantee.

However, if and to the extent that any water facilities conveyed contemporaneously herewith by Grantee to Grantor (the "Water Facilities") are located on the Premises and exist within and/or encroach upon the Right of Way Strip, then Grantor shall have the right to continue to use, maintain, replace and repair such Water Facilities provided Grantor shall make commercially reasonable efforts not to interfere with the use, maintenance, replacement and/or repair of lines of Grantee or damage lines of Grantee within such Right of Way Strip.

TO HAVE AND TO HOLD the aforesaid rights, privileges and easements unto Grantee, its successors and assigns forever.

And Grantor, for the Grantor and for the Grantor's heirs, executors, administrators, successors and assigns, covenants to and with Grantee, its successors and assigns, that Grantor is lawfully seized of the above described land in fee and has the right to convey the said rights and easements; that the same is free and clear from any and all encumbrances and will forever warrant and defend the title to the said rights and easements against the lawful claims of those claiming from, through or under Grantor.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

Signed, sealed and delivered
in the presence of:

[City and County System]

By: _____
President

Attest: _____
Assistant Secretary

[CORPORATE SEAL]

THE STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2002, by _____ as _____ of [City and County System], a _____ of the State of South Carolina on behalf of the corporation.

Notary Public for South Carolina

My Commission Expires: _____

(NOTARIAL SEAL)

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EXHIBIT E

ROBINSON, BRADSHAW & HINSON, P.A.
Attorneys at Law
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

THE STATE OF SOUTH CAROLINA

SPECIAL WARRANTY DEED

COUNTY OF ANDERSON

KNOW ALL MEN BY THESE PRESENTS, That DUKE ENERGY CORPORATION, a North Carolina corporation and whose address is Wachovia Building, 13th Floor, 400 South Tryon Street Charlotte, NC 28202, Attention: Robert S. Lilien hereinafter called "Grantor", in consideration of the sum of _____ paid at and before the sealing of these presents by the CITY OF ANDERSON, an incorporated City in the State of South Carolina hereinafter "Grantee" (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released and by these Presents does grant, bargain, sell and release unto the said Grantee, its successors and assigns forever (subject to the rights and easements reserved to Grantor below), all those certain lots or parcels of land, together with improvements thereon, situated in Anderson County, South Carolina and more particularly described on Exhibit A attached to and made part of this Deed by this reference (the "Property").

DERIVATION: Being a portion of that property conveyed to Duke Power Company in Book _____, Page _____.

The within property is conveyed subject to:

Liens for valorem taxes and assessments for 2002 and subsequent years.

The easements reserved and granted below.

All valid and enforceable covenants, restrictions, easements and conditions of record, if any.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

[The following reservations will be modified such that Sections (a), (b) and (c) will not apply to Owens Corning Tank and the 6.61 acre tract of the Filtration Plant.]

LESS AND EXCEPT and reserving to Grantor the rights and easements set forth below:

Reservation of Electric Power and Access Easements.

The easements described below are reserved and granted for the benefit of the following persons and/or entities (collectively, the "Grantor Beneficiaries") (i) Grantor and its successors and assigns; and (ii) any appropriate public authority to whom or which any facility within the Electric Easement Areas (defined below) is dedicated now or hereafter for public use and/or maintenance.

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GRANTOR HEREBY RESERVES for itself and each of the other Grantor Beneficiaries and Grantee, by its acceptance of this Deed, hereby grants to Grantor Beneficiaries the following nonexclusive, permanent, perpetual appurtenant rights and easements, each of which shall run with the title to and burden the Property and benefit each of the Grantor Beneficiaries and be appurtenant to the property owned by each of the Grantor Beneficiaries:

(a) The nonexclusive, permanent, perpetual, appurtenant right and easement to use the Electric Easement Areas for electric utility purposes and for the purpose of operating and maintaining power distribution and transmission lines and other power distribution and transmission assets and facilities and for other purposes customarily contained in easements to electric power utilities and to install, maintain, construct, lay, operate, inspect, repair, replace and/or remove, from time to time, subject to the terms and provisions hereof, electric utility facilities within the Electric Easement Areas. Grantor shall have the right, without the joinder of Grantee or any other party, to dedicate any electric utility facility or facilities in the Electric Easement Areas to any appropriate public authority.

(b) A nonexclusive, permanent, perpetual, appurtenant right and easement for access, ingress, egress and regress over and upon so much of the Property as may be reasonably necessary to have access to the Electric Easement Areas and to exercise and enjoy the easements reserved and granted in the foregoing subparagraph (a).

(c) A perpetual easement and right of way 30 feet in width for the purposes hereinbelow set out, over and across the portions of the Property lying 15 feet on each side of the centerline of all existing overhead distribution lines crossing and/or located on the Property (collectively, the "Electric Easement Areas"). Within the right of way above referred, Grantor shall have the right to construct, maintain and operate with poles, crossarms, wires, guys, anchors, cables, transformers and other necessary apparatus and appliances, overhead lines for the purpose of transporting electricity and for the communications purposes of Grantor and its assigns. The following rights are also reserved by Grantor: the right to enter said right of way to inspect said lines, to perform necessary maintenance and repairs, and to make alterations and additions thereto; to remove from the right of way, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines and trees of any species that Grantor determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines; to trim or remove and to keep trimmed or removed dead, diseased, weak or leaning trees or limbs outside of the right of way which, in the opinion of Grantor, might interfere with or fall upon the electric or communication facilities within the right of way, and to install guy wires and anchors extending beyond the limits of the right of way when determined necessary by Grantor.

(d) [To be included only in Owens Corning Tank deed.] A non-exclusive, appurtenant, temporary right and easement which expires one year from the date of this deed, for access, ingress, egress and regress over and across the "Water System Lot", defined in Exhibit A, and the water tank located thereon, conveyed hereby to have access to the communication equipment of the Grantor which is located on said water tank.

However, if and to the extent that any water facilities conveyed by Grantor to Grantee (the "Water Facilities") are located on the Property and exist within and/or encroach upon the Electric Easement Areas reserved to Grantor above, then Grantee shall have the right to continue to use, maintain, replace and repair such Water Facilities provided Grantee shall make commercially reasonable

efforts not to interfere with the use, maintenance, replacement and/or repair of facilities of Grantor or damage facilities of Grantor within such Electric Easement Areas.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said Grantee, his her or their heirs and assigns forever.

The Grantor covenants to warrant specially the title to said premises against the lawful claims of any person claiming from, through or under it.

In Witness Whereof, **DUKE ENERGY CORPORATION** has caused this instrument to be executed by its duly authorized officials, and its corporate seal to be hereto affixed this _____ day of _____ in the year of our Lord two thousand two and in the two hundred and twenty-sixth year of the Sovereignty and Independence of the United States of America.

Signed, sealed and delivered
in the presence of:

DUKE ENERGY CORPORATION

By: _____

President

Attest: _____
Assistant Secretary

[Corporate Seal]

THE STATE OF NORTH CAROLINA)

COUNTY OF MECKLENBURG)

The forgoing instrument was acknowledged before me this _____ day of _____, 2002,
by _____ as _____ of Duke Energy Corporation a North
Carolina corporation on behalf of the corporation.

Notary Public for North Carolina

My Commission Expires: _____

(NOTARIAL SEAL)

09.06.12 City 000058

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EXHIBIT F

ROBINSON, BRADSHAW & HINSON, P.A.
Attorneys at Law
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

THE STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

NON-WARRANTY DEED
AND ASSIGNMENT OF
EASEMENTS

KNOW ALL MEN BY THESE PRESENTS, That DUKE ENERGY CORPORATION, a North Carolina corporation and whose address is Wachovia Building, 13th Floor, 400 South Tryon Street Charlotte, NC 28202, Attention: Robert S. Lilien hereinafter called "Grantor", in consideration of the sum of _____ paid at and before the sealing of these presents by THE CITY OF ANDERSON, an incorporated City in the State of South Carolina hereinafter "Grantee" (the receipt whereof is hereby acknowledged) has granted, bargained, sold and released and by these Presents does grant, bargain, sell and release unto the said Grantee, its successors and assigns (subject to the rights and easements reserved to Grantor below) all of Grantor's right, title and interest in and to those certain water distribution and water transmission easements, rights of way and rights of encroachment and those water distribution facilities located therein all as is more particularly described as follows (collectively, the "Property"):

(a) All recorded and unrecorded water distribution and water transmission easements, rights of way and rights of encroachment to the extent the same contain (but only to the extent the same contain) City Retail Mains and Pipes (defined below) and are: (i) owned by the Grantor or in which the Grantor has an ownership interest; and (ii) used by the Grantor in connection with such City Retail Mains and Pipes. To the extent any such easement, right of way or right of encroachment is utilized by Grantor for any purpose or purposes other than water distribution or water transmission, Grantor reserves the nonexclusive right to use the same for such other purpose or purposes and each of such rights reserved to Grantor and each of the rights transferred to Grantee hereunder are and shall be subject to the conditions that the same are and shall be nonexclusive and that the same shall be utilized by each party in such manner as shall not be inconsistent with and shall not interfere with the rights of the other party.

(b) All water mains and pipes used by Grantor in connection with Grantor's water system assets which Grantor has conveyed to Grantor contemporaneously herewith that are (i) owned by the Grantor or in which the Grantor has an ownership interest and (ii) located within the [legal description/area depicted] on Exhibit A attached to this Deed and made part of this Deed by this reference, but expressly excluding the water mains and pipes described on Exhibit B attached to this Deed and made part of this Deed by this reference (the included water mains and pipes are referred to as the "City Retail Mains and Pipes").

(c) All fire hydrants, meters and valves that are (i) owned by the Grantor or in which the Grantor has an ownership interest and (ii) connected to and served by the City Retail Mains and Pipes.

(d) Any other provision of this Deed to the contrary notwithstanding, the Property shall not include any other assets including (i) any water main or pipe associated with Grantor's Duke Water System to the extent the same is located outside of the geographic area described on Exhibit A; (ii) any land, building or structure, water storage tank or facility or associated pumping and related equipment not otherwise included above in the Property, including Grantor's Duke Water System water treatment plant and related assets; and (iii)

09.06.12 City 000059

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any easement, right of way or other right appurtenant to or otherwise associated with any of the assets described in (i) and (ii) in this sentence.

LESS AND EXCEPT and reserving to Grantor the rights and easements set forth below.

Reservation of Electric Power and Access Easements.

The easements described below are reserved and granted for the benefit of the following persons and/or entities (collectively, the "Grantor Beneficiaries"): (i) Grantor and its successors and assigns; and (ii) any appropriate public authority to whom or which any facility within the Electric Easement Areas (defined below) is dedicated now or hereafter for public use and/or maintenance.

GRANTOR HEREBY RESERVES for itself and each of the other Grantor Beneficiaries and Grantee, by its acceptance of this Deed, hereby grants to Grantor Beneficiaries the following nonexclusive, permanent, perpetual appurtenant rights and easements, each of which shall run with the title to and burden the Property conveyed by this Deed and benefit each of the Grantor Beneficiaries and be appurtenant to the property owned by each of the Grantor Beneficiaries:

(a) The nonexclusive, permanent, perpetual, appurtenant right and easement to use the Electric Easement Areas for electric utility purposes and for the purpose of operating and maintaining power distribution and transmission lines and other power distribution and transmission assets and facilities and for other purposes customarily contained in easements to electric power utilities and to install, maintain, construct, lay, operate, inspect, repair, replace and/or remove, from time to time, subject to the terms and provisions hereof, electric utility facilities within the Electric Easement Areas. Grantor shall have the right, without the joinder of Grantee or any other party, to dedicate any electric utility facility or facilities in the Electric Easement Areas to any appropriate public authority.

(b) A nonexclusive, permanent, perpetual, appurtenant right and easement for access, ingress, egress and regress over and upon so much of the Property as may be reasonably necessary to have access to the Electric Easement Areas and to exercise and enjoy the easements reserved and granted in the foregoing subparagraph (a).

(c) A perpetual easement and right of way 30 feet in width for the purposes hereinbelow set out, over and across the portions of the Property lying 15 feet on each side of the centerline of all existing overhead distribution lines crossing and/or located on the Property (collectively, the "Electric Easement Areas"). Within the right of way above referred, Grantor shall have the right to construct, maintain and operate with poles, crossarms, wires, guys, anchors, cables, transformers and other necessary apparatus and appliances, overhead lines for the purpose of transporting electricity and for the communications purposes of Grantor and its assigns. The following rights are also reserved by Grantor: the right to enter said right of way to inspect said lines, to perform necessary maintenance and repairs, and to make alterations and additions thereto; to remove from the right of way, now or at any time in the future, trees, structures or other obstructions that may endanger the proper maintenance and operation of said lines and trees of any species that Grantor determines will grow at maturity to a height that will endanger the proper maintenance and operation of said lines; to trim or remove and to keep trimmed or removed dead, diseased, weak or leaning trees or limbs outside of the right of way which, in the opinion of Grantor, might interfere with or fall upon the electric or communication facilities within the right of way; and to install guy wires and anchors extending beyond the limits of the right of way when determined necessary by Grantor.

However, if and to the extent that any water facilities conveyed by Grantor to Grantee (the "Water Facilities") are located on the Property and exist within and/or encroach upon the Electric Easement Areas reserved to Grantor above, then Grantee shall have the right to continue to use, maintain, replace and repair such Water Facilities provided Grantee shall make commercially reasonable efforts not to interfere with the use, maintenance, replacement and/or repair of facilities of Grantor or damage facilities of Grantor within such Electric Easement Areas.

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The within property is conveyed subject to:

Liens for valorem taxes and assessments for 2002 and subsequent years.

The easements reserved and granted above.

All valid and enforceable covenants, restrictions, easements and conditions of record, if any.

TOGETHER WITH all and singular the Rights, Members, Hereditaments and Appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the Property described above (subject to the rights and easements reserved to Grantor above) unto the said Grantee and its successors and assigns forever.

Notwithstanding the foregoing or any other provision of this Deed to the contrary notwithstanding, it is acknowledged and agreed that: Grantor does not know the extent to which it does or does not have an ownership interest in the Property and, therefore, Grantor does not make and hereby disclaims any warranty or other assurance regarding such Property.

In Witness Whereof, DUKE ENERGY CORPORATION has caused this instrument to be executed by its duly authorized officials, and its corporate seal to be hereto affixed this _____ day of _____ in the year of our Lord two thousand two and in the two hundred and twenty-sixth year of the Sovereignty and Independence of the United States of America.

Signed, sealed and delivered
in the presence of:

DUKE ENERGY CORPORATION

By: _____
President

Attest: _____
Assistant Secretary

[Corporate Seal]

THE STATE OF NORTH CAROLINA)

COUNTY OF MECKLENBURG)

The forgoing instrument was acknowledged before me this _____ day of _____, 2002, by _____ as _____ of Duke Energy Corporation, a North Carolina corporation on behalf of the corporation.

Notary Public for North Carolina

My Commission Expires: _____

(NOTARIAL SEAL)

EXHIBIT A

[Legal Description/Area Depicted and containing Easements and City Retail Mains and Pipes]

09.06.12 City 000063

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EXHIBIT B

[Expressly *Excluded* Water Mains and Pipes]

[Insert narrative description of the mains described on Schedule 2 of Exhibit A to the Asset Purchase Agreement between the Grantor and the Grantee]

09.06.12 City 000064

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EXHIBIT G

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City of Anderson, Ark.

02:23:57 p.m. 08-05-2013 000429

List of Addresses along Old Pearman Dairy Rd, from
Hunter's Trail to RR Crossing @ Dunn Road

Shennandoah Road		New Salem II Stagecoach Drive		Overland Dr	
Number	Customer	Number	Customer	Name	Customer
998	Bobbie J. Crawford	110	Blay S. Stone	103	Paul Stafford
1000	Marlin J. Halsey	201	Jimmy Vickers	103	Renax Restly
1001	G. Edward Nelson	202	Mark Alan Springer	110	Jim Island
1002	Busan M. Slade	203	Douglas F. Dorsey		
1003	Stephanie Garple	300	Barbara D. Watt		
1004	Steven K. Wood	301	Horacio A. Fant		
1005	Fredrick Peterson	302	Cleo Ann Smad		
1006	Paul Zugg	303	Timothy E. Fuller		
1007	Robert Parker	304	Carey R. Elson		
1008	Charles Moorhead	401	Terese K. Pelletier		
1009	Brooke M. Adams	402	Jo Ann Hicks		
1010	Francis Lindsey	403	Barry H. Jordan		
1011	Tru Grooms	404	Jillie T. Gisel		
1012	Della O. Cuddeback	405	Bobby Jean Bryant		
1013	Gregory L. Johnson	400	Mark Stevens		
1014	Jill M. Bond	500	Enrico Drona		
1015	Dana Pettway	502	Maureen Jenkins		
1017	David Moser, Jr	503	Betty M. Flynn		
1019	John Michael Rich	604	Bernard Reynolds		
1021	William T. Parker	518	T. S. Tarler		
1105	T. Roe McCoy & Son	520	Richard A. Sandlin		
1107	Joshua M. Donald	522	Sandra B. Foxler		
		523	Cecilia R. Wojcik		
		624	O. D. Dyer		
		525	Joseph D. Elmore		
		526	Louis B. Heler		
		528	Steve T. Ackerman		
		531	Mark L. Vaughn		
		533	Richard L. Rice		
		534	John T. Wadlaw		
		538	James H. Hersh, Jr.		

Beaverlake Road	
Number	Customer
2002	Eugene Hunt
2005	Eddie Joe Williams
2007	William L. Bennett
2008	C & B Blue

Beaverlake Road

Number	Customer
2000	Jeffrey M. Bate
2001	T Ree McCoy
2003	T Ree McCoy
2004	Joe Montgomery
2005	James Lollis
2009	Steven Mullins
2010	Wendell Madray
2011	Kenneth Long
2012	John Alexander
2013	Michael Osaler
2014	Dana Krajack

Stagecoach Drive

Number	Customer
540	Jane, M. Boyle
608	John Clyde Taylor
702	Kim Garcia
704	Robert J. Murphy
705	William T. Gristum
709	Larry Crumbliss
708	Dianne Lackey
800	John K. Hogberg
806	William Brown
807	Richard D. Rusher
902	Catherine H. Vaughn
903	Yammy B. Carter
904	Stephen Brock
905	Kachiva
906	Walter H. Jacoby
907	James A. Gillespie
908	James Curtis
909	Anthony Payaups
910	Florence Lombardo
911	Vickie W. Johnson

Blackberry Lane

Number	Customer
401	Daniel Metz
402	Jerry Dennis Loden
403	Elmer D. Wilson
404	Michael Barnes
405	Steven Wysocki
406	Robert Santerl
407	Jerry Bieu
408	Wesley E. Queen
409	William J. Curry
411	Douglas E. Larson

New Salem I

Strawberry Lane

Number	Customer
303	Kenneth Shore
304	G. C. Montgomery
305	Walter A. Azelias
306	Dale P. Petcha
307	Mike Drummond
308	Theodore Whitney
311	James A. Arnold
315	Donald W. Brewer

Elderberry Lane

Number	Customer
503	Glenn Oliver Key
504	Alice W. McCutough
505	Vaughn Paxlin
506	Deborah Ramsay
507	Shannon L. Austin
508	Teresa Johnson
510	James B. Coggins
512	Lamy D. Lewis

Chateau Woods

Chantilly Lane
Number Customer

801 Steven J. Harbaga
802 Karen Harrison
803 Barbara G. Gordon
804 Jennifer L. Maxwell
808 Richard S. Asst
810 Mrs. Maudie H. Givens
903 Bill Beeman
904 Dorothy E. Harrison
905 Diane M. Nickman
906 Werner Lehmann
907 Leonard J. Colley
910 Randall Hullman
1000 Roy Alexander
1002 Christine Horn
1004 Robert A. Hancock
1005 William David Sanders
1008 Nancy Jo Thompson
1012 ?
1014 Peter G. Thorne
1016 William Gray
1018 Eugene M. Mealey
1022 Derrick B. Elmer
1024 Gerald P. Perullo

Number Customer
203 Barry New
207 Fadi Georges Chabbout
304 Charles L. Simmons
405 James D. Huff

Rideau Road
Number Customer
1200 A. Daniel Hucknau
1203 Fletcher J. Johnson
1205 Terry W. King

Versailles Drive
Number Customer
1103 Grant M. Emmons
1105 Thomas J. Miller
1106 Tonya Todd
1107 Jennifer L. Fennell

Fontainebleau Drive
Number Customer

502 Brian H. Isbell
503 Raymond Hudson
504 Melinda E. Fink
505 Harry J. Miller
507 Brian E. Fischer
601 Alvin M. McGhee
603 Jennifer V. Beggs
605 Philip Bayless
607 Donna Marie Ivester
701 Tillery S. Barnes
702 Gary Gussel
703 Anita R. Tedder
705 Wensco Choi

Chautauque Road
407 Sunny South Builders

Old Pearman Dairy Road

Number	Customer	Number	Customer
No #	Ebenezer Bapt Church	5825	Yvette H. Sparks
5400	Timothy O. Brock	5931	Teresa Christian
5505	Franz Wenzel	5833	Charles Rice
5644	Carolina Z. Green	5905	Blaise Wiley
5680	Joe Heald	6913	C. E. Duckett
5682	Michele Strasser	5526A	Uta Chamberlain
5684	Calvin L. Arnold	5526B	George A. Harvey
5686	Lydia Sutherland	5628A	Crystal Bumer
5688	Maqnila Parker	5528B	Kwabene D. Brown
5690	Marc S. Mills	5530A	Kenneth W. Grahert
5696	Preston E. Meredith	5530B	T. R. McCoy, Jr
5698	Roger Chapman	5532A	Ron L. Wick
5700	Stephen E. Coarier	5532B	Judy Henderson
5701	H. Ted Barnett	5538A	April Gavenport
5702	Gregory N. Talbot	5538B	Donald Helmsberg
5704	Greg V. Madlin	5538A	Vanessa C. Sanders
5707	Jean M. Brown	5538B	Clinton R. Smith
5708	Ron E. Rigby	5540B	Michael K. Giler
5715	George Myer	5540B	Dorinda D. Parker
5802	David Ead Whitfield	5542A	Lisa Robbins
5819	Philip E. Bryant	5542B	Lloyd Reynolds
5821	Brian McGinn	5825A	Angela D. Madlin
5823	Floy L. Shirley	5826B	James S. Henderson, Jr
58050	Morgan	5825C	Famil Cary
5805C	Franz Wenzel		
5805D	Franz Wenzel		
5819A	Jeffrey Floyd		

Moss Drive

Number	Customer
106	Baxter Moss
107	Myron L. Floyd
110	Baxter Moss
111	Angela Jenkins
113	Dennis Rice
120	Angela M. McCaslen
129	Shario A. Belloway

Burton Drive

Number	Customer
505	Vandora Winn
507	Mary A. Thompson
511	Johnny E. McAllister
512	Regina D. Pickens
514	William R. Bradley
516	Johnny N. Whitford
518	Tyrone M. Little
601	T. H. Thompson
604	David Rice
605	Roy E. Wiley

Rice Circle

Number	Customer
249	Carl Duckett

Honey Path Park Road

Number	Customer
213	Glacy T. Sanders

Dixon Road, from Old Pearman Dairy to Gannard Road
Dunhill Subdivision

Dixon Road		Donarce Dr & Cir		Dunhill Dr & Cir	
Number	Customer	Number	Customer	Number	Customer
4201	Tonya L. Freeman	100	Fredrick Reed	300	Elwitt Southard
4203	Carl Taylor	102	Jane P. McConnell	302	Candy R. Brock
4205	Arnold Harrison	103	Lorena Thrasher	304	Don Ellison
4208	Bobby Dunn	104	Ben R. Willis	308	Rhonda Warren
4209	Ken Walker Realty	105	Allred E. Amos	311	Ray LeCroy
4211	Betty Joe Dunn	108	Don A. Coleman	313	Dave Manning
4214	Eddie Carter	107	Robert M. Avant II	315	Sammy D. Wicker
4219	Haney Michale Harris	108	Leura Edmonds	317	Erin L. Jagers
4223	J. W. Kennedy	109	Mark A. Lauld	401	Juddy Whitfield
4228	Dorothy M. Fowler	110	Sherry Carter	402	Belinda C. Isom
4240	Larry Robinson	201	Cynthia D. Evans	404	Jamie Leigh Gaines
4250	Albert Baldwin	202	Karen Faye Caldwell	405	Kevin B. Now
4255	Marsha Ann Coats	203	Tracey Kay Brock	408	Hiram Michael Brace
3800A	Terry Ewardan	204	Inactive	407	Steve Kirby
4220B	Harold Kennedy	208	Robert Ayers, Jr.	408	Joseph L. Solider
4223C	Deborah Shelton	207	Robert Anthony Ginn	410	Charles A. League
				412	Donna F. Smith
				414	Bruce A. Gordon

Stonehaven Dr		Dana Road	
Number	Customer	Number	Customer
100	Jimmy White	1401	Davelene Buchanan
101	Luvard Smith	1415	Mary T. Harvey
		1502	Harold Kennedy
		1504	Jack Roberts II
		1505	Nancy D. Early
		1506	Helen Lotts
		1508	Doris P. Melcote
		1501	Gregory Blackwell
		1503	Larry Thompson
		1505	Donna Duham

Parkwood Subdivision

Parkwood Drive		Parkwood Circle		Garard Road	
Number	Customer	Number	Customer	Number	Customer
208	Ralph Whit	202	Angela R. Parlow	1502	Don Hawkins
500	Cheryl Snelgrove	204	Rubie L. Vickery	1506	J. M. McGuff
501	Wesley J. Dominick, Jr.	205	Hubert E. Connor	1512	Tony Logan
503	Michael A. Bregg	206	Danny Stencl	1515	Jerry McAbster
505	Simon D. Webb				
507	Robert E. Moorhead				
600	Stephanie H. White	Parkwood Court		Viking Court	
602	Peggy E. Richardson	Number	Customer	Number	Customer
603	Joe Michael Johnson	104	Loral R. Jones, Jr.	100	(lap, no meter)
604	Wayne Johnson	105	Donna Robinson	101	(lap, no meter)
605	Tommy White	109	Charles W. Spearman	102	Cape Const
607	Johnny Ray Johnson			103	(lap, no meter)
608	Lonnie McCoy				
609	James Craft				
611	Jimmy A. Brown				
612	Joe C. Moons				
613	William C. Manley				
615	Gerald K. McAllister				
700	Robert A. Frey				
701	James R. Thomas				
702	Doyle Looney				
703	Bobby Whitfield				
800	Inactive				
801	GIVEN McCarragher				
803	Randall C. Moon				
804	Harold Cope				
901	Cheryl R. Causey				
902	Joe T. Wilts				
903	Deborah Mann				
904	Jerry Williams				
905	Alto Flores LLC				
807	Bobby Carroll				

List of Addresses for Broadway Water and Sewer District

Nelson Drive		Eastwood		Kild Coor	
406	Joyce Ann McIntosh	709	Asha C. Putman	1807	Stephen Lattimore
407A	Nalasha L. Marrich	711	William E. Chaney		
407B	Teresa Bailey	719A	Priscilla Martin		
407C	Raymond Finley	800	Bentley James	1800	Henry Lefimer
407D	Theodore Jones Jr.	801	Paul Enclotin	1801	Carl Payne
407E	Tam T. Brown	802	Olise Martin Jr.	1803	John Ferraro
408A	Beverly H. Lewis	803	Jerry Paul	1704	J. Ralph Campbell
409B	Robin D. Sherard	804	Samine Martin	1800	Sam O. Robertson
409C	Wanda Richardson	805	Dorothy Dush	1801	Jack Bond
409D	Ella R. Hardison	806	Johnny Ellis	1804	Monica E. Donald
409E	Anisnette Chapman	807	Harvey Sue Bullog	1810	H. V. McGrath
411A	Michael L. Adams	808	Thomas Packs Jr.	1812	Lucy Stubert
411B	Inactive	809	Robert L. Sanford Jr.		
411C	Shelly L. Wideman	810	Laura Field		
411D	Chukl Posey	811	Sharon C. Allen	700	Robert Edwards
411E	Robyn H. Green	812	Newborn Mae Davis	701	Brenda Perry
413A	Shirley Lee Scott			702	Margaret S. Patterson
413B	Shari Cooley			703	Larry Peterson
413C	Ashlyn W. Hall			705	Amos Matress Jr.
413D	Fernand C. Lindsey	800	Moonshead Construction	710	da Phillips
413E	Sharyn K. Wyatt	802	John H. Johnson	712	Thomas L. Robinson
415A	Pamela J. Jenkins	803	Ernest Harrison Jr.	714	Moss Odell Jr.
415B	Inactive	808	Joanthy J. Hall	715	Sylvane C. Leslie
415C	Tameka L. Burton	809	Robert Steward	717	Linda Bush McDowell
415D	Jack R. Ramsey	811	Henry Hogan Jr.	800	Jimmy Ellis
415E	Debbie J. Johnson	813	Katonya R. Glenn	801	Alfred Alexander
417A	Quenton A. Thompson	816	Tertel Norith	802	Lloyd V. Haller
417H	Teresa Lanchie Jones	900	James H. Williams	803	Shirley L. Heard
417C	Jane Harrison		Mrs. Ruth Singleton	804	Harman Keith Logan
417D	George W. Thomas			807	Marcelyn E. Hamilton
417E	Nancy E. King	1902	Cross Hill inactive	809	Gordon White

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City of Anderson, Ark.

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Eastwood		Shamrock Lane	
708	Ike C. Pulman	702	Leslie White
711	William E. Chaney	704	Zoraya Weaver
718A	Priscilla Martin	705	Ronald C. Davis
803	Burley James	706	Audrey L. Verdel
801	Paul Entekda	707	Theresa D. Johnson
802	Clara Martin Jr.	708	Audrey L. Verdel
803	Jerry Paul	709	Herman Lee
804	Samira Martin	710	Dorothy Johnson
805	Dorothy Kish	711	inactive
806	Johnny Ellis	713	Rodney Allen
807	Nancy Sue Burns	716	Robin N. Brown
808	Thomas Parks Jr.	718	John Edwards
809	Robert L. Sanford Jr.	806	Beth Jean Myers
810	Laura Reid	801	Shirley Ann Gray
811	Sharon L. Allen	803	Errol Duwayne Johnson
812	Newanna Mae Cane	804	Mrs. Lucy Kearns
		805	Janie B. Williams
		806	James R. Brown
		807	inactive
		808	James Blasing
		809	Larry L. Graves
		810	Willa Smith
		811	Galy Heard
		812	Maebe Clinton
		813	Mavis Wright
		815	Harris E. Clark

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City of Anderson, Ark.

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Additional Taps to be Sold to the System or its Designee

<u>New Salem Road</u>	<u>Dixon Road</u>	<u>Dixon Road (cont.)</u>
201	3702	4008
	3708	4009
<u>Chautilly Lane</u>	3806	4011
213	3808	4013
Lt 36	3812	4015
	3815	4017
<u>Old Pearman Dairy Road</u>	3818	4019
5706	3900	4021
	3902	4023
<u>Dunaree Drive and Circle</u>	3903	4025
205	3904	4027
	3907	4029
	3908	4031
	4000	4033
	4003	4035
	4005	4037
	4007	4039

3/16/02
3/12/02

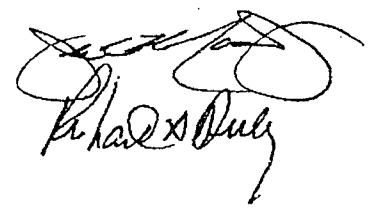

Richard S. Duly

EXHIBIT H

OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the "Agreement") dated this _____ day of _____ 2002, is by and between the City of Anderson, an incorporated municipality in the State of South Carolina (the "City"), and the Anderson County Joint Municipal Water System, a public body corporate and politic of the State of South Carolina ("System").

BACKGROUND STATEMENT

1. The System owns and operates certain water transmission mains in Anderson County, South Carolina (the "System Transmission Mains").
2. The City owns and operates certain water transmission mains located within and outside the City's corporate limits (the "City Transmission Mains").
3. The System Transmission Mains and the City Transmission Mains may hereafter be collectively referred to as the "Transmission Mains". Both the System Transmission Mains and the City Transmission Mains are shown on Exhibit A and Exhibit A-1 attached hereto, incorporated herein, and made a part of this Agreement.
4. The System sells water to the City on a wholesale basis using the Transmission Mains.
5. The City Transmission Mains also serve multiple other wholesale purchasers of the System and are therefore not operated exclusively for the benefit of the City.
6. The Transmission Mains also are integral parts of the City's retail water system and are therefore not operated exclusively for the benefit of the System.
7. The construction of Additional Transmission Mains (as described in paragraph 7(a) of this Agreement) is a common goal of each party and the construction thereof will be equally beneficial to the City and the System. Presently, potable water is transported and distributed to certain of the System's wholesale customers (West Anderson Water District, Homeland Park Water District, Starr-Iva Water and Sewer District, Broadway Water and Sewerage District, Hammond Water District) through the City Transmission Mains. The Additional Transmission Mains will allow the System to transport and distribute potable water to these wholesale customers without the need of the City Transmission Mains.
8. The parties hereto desire to enter into an agreement regarding the use, operation, maintenance, and other matters involving the System Transmission Mains, the City Transmission Mains, and the Additional Transmission Mains recognizing the needs of the System and the City.
9. This Agreement is necessary to allow each of the parties to finance the acquisition of their water systems from Duke Energy Corporation through the issuance of long-term revenue bonds.

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STATEMENT OF AGREEMENT

In consideration of the mutual agreements between the parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Right to Use Connections.

(a) In order to enable the System to perform its obligations under the Water Sale and Purchase Agreement dated _____ (the "Water Purchase Agreement"), the System is hereby granted the right to utilize the City Transmission Mains and related facilities necessary for the purpose of transporting and distributing potable water to the City and its other wholesale customers. The City hereby covenants not to interfere, obstruct or impede this right of use for water transmission purposes.

(b) In order to enable the City to perform its obligations to provide water to its retail customers, the City is hereby granted the right to utilize all Transmission Mains and related facilities necessary for the purpose of transporting and distributing potable water to its retail customers. The System hereby covenants not to interfere, obstruct or impede this right of use for water transmission purposes to the City's retail customers.

(c) Each party hereby agrees that the primary use of the Transmission Mains is to provide for the transportation and distribution of potable water for the benefit of the City's retail customers and the System's wholesale customers. There will be no charges or tariffs for the use of the Transmission Mains by the owner of the Transmission Mains to the other party. Subject to the limitations of Section 3 hereof to the Statement of Agreement portion of this Agreement, each party is entitled to make connections to the Transmission Mains free of charge provided, however (i) that such connection is made in good faith for the sole purpose of serving customers of the party making the connection, i.e., it is for actual use; (ii) such connection is for a line of at least six inches in diameter; (iii) such connection is to serve customers in the connecting party's service area; (iv) the party requesting the tap must obtain a certificate of availability of capacity (the "Certificate") from the System before any work is commenced, it being understood that the System will not unreasonably refuse to issue, or unreasonably delay issuing, such a Certificate to the City. The request for such Certificate shall set forth the size of the line, projected water demand and location of the water customer(s), the location of the line and tap, the projected completion date of preparatory work, and a cost estimate of the tap; and (v) the System makes a determination of the effect, if any, that such connection will have on the transportation and distribution of water to customers served by the Transmission Mains. In the event the System determines, in its reasonable discretion, that the requested connection will adversely affect the ability of the System to transport and distribute water to customers, both retail and wholesale, being served by the Transmission Mains, then such tap or connection shall not be made until System improvements can be implemented that will mitigate any negative conditions that were

anticipated as a result of the connection request all pursuant to and in accordance with the provisions of Section 3.09 of the Water Purchase Agreement.

(d) The City shall be entitled to tap the City Transmission Mains for lines that are less than six inches in diameter for the purpose of serving customers in the City's service area, provided that, for each such tap, (i) the City must give the System three business days' prior written notice of the City's intention to tap into the City Transmission Main, which notice shall include the size of the line to be connected, the projected water demand through the line, the location of the line and the tap, and the projected completion date of the tap, and (ii) the System does not, within two business days after receiving such written notice, notify the City that the System has determined that such a tap will adversely affect the ability of the System to transport and distribute water to customers.

(e) At any time that a connection is made to a System Transmission Main, the System shall determine whether a master meter must be installed.

2. Operation and Maintenance.

(a) Each owner agrees to pay all costs (including operational, maintenance, repairs and capital costs) involved in keeping the Transmission Mains owned by such party in good working order and condition, and to keep such Transmission Mains operational at all times. This includes the obligation to pay all costs related to the maintenance and operation of water facilities which are not Transmission Mains, including hydrants, but which are necessary, useful or appropriate in order to keep the Transmission Mains in good working order and operational and which water facilities are owned by the party who is responsible for such costs.

(b) In the event an owner of a Transmission Main does not maintain such Transmission Main in good working order and condition, the other party to this Agreement is hereby authorized to make any necessary repairs or perform such acts as are required to keep the Transmission Main in good working order, provided, however, prior to taking any such action, the party who is not the owner must give the owner written notice of such deficiency and a period of ten days, except in an emergency, shall have elapsed from the date of such notice with no remedial action undertaken by the owner during such period. The owner of the Transmission Main shall be responsible for the costs of any such repair.

(c) Each party hereby agrees that it will endeavor to use such efforts as are commercially reasonable and available in the operation and maintenance of the Transmission Mains owned by each party, so as to prevent the disruption of service to the other party's customers. To the extent it is reasonably possible to do so, each party will provide the other party with advance notice of any activities such party anticipates it needs to undertake in the operation and maintenance of the Transmission Mains owned by such party, which activities can be reasonably expected to disrupt service to the other party's customers.

3. Procedure for New Connections. The following procedure applies to any request by either the City or the System to tap into any part of a Transmission Main owned by the other party:

(a) Upon receipt of the Certificate from the System, as provided in (1)(c)(iv) herein, the party desiring to tap into a Transmission Main that it does not own (the "Connecting Party") will undertake and be responsible for all preparatory work to make the connection to the other party's Transmission Main, including excavation, location and avoidance of disruption of all other utilities, shoring, and work zone safety;

(b) Upon proper completion of the preparatory work, the Connecting Party will notify the owner of the Transmission Main (the "Owner Party"), and the Owner Party shall make a tap into the Transmission Main and furnish all material necessary to make the tap into the Transmission Main (including the tapping sleeve and valve). The Owner Party will perform such work in accordance with all applicable laws and regulations, but is not responsible for any other work (including, but not limited to, the location or quality of the new line to be connected to the Transmission Main, which shall be Connecting Party's responsibility);

(c) The Connecting Party will be responsible for furnishing and installing the valve box and riser in accordance with drawings and specifications which must be previously approved by the Owner Party and will be responsible for backfilling the excavation and asphalt or concrete repair,

(d) The Connecting Party will reimburse the Owner Party for its actual cost of labor and materials within thirty (30) days after receipt of an invoice from the Owner Party for such labor and materials. Any amount unpaid after the due date shall accrue interest at 8% per annum until paid,

(e) The Connecting Party agrees to indemnify, defend and hold harmless the Owner Party against all demands, claims, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or suffered or incurred by the Owner Party which result from the Connecting Party's activities in connecting to the Owner Party's Transmission Main; and

(f) Each party agrees to perform all work, including all preparatory work, in accordance with all applicable laws and regulations, including the South Carolina Department of Health and Environmental Control ("DHEC"), the South Carolina Department of Transportation and the Occupational Safety & Health Administration regulations.

4. Conveyance of Transmission Mains Upon Abandonment. Should any of the System Transmission Mains in the City's service area be abandoned by the System, the System agrees to convey the abandoned System Transmission Mains to the City at no cost. The City agrees, however, to reimburse the System for all expenses (including reasonable attorneys' fees) incurred in connection with such conveyance.

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5. Force Majeure: Limitations of Liability.

(a) In the event either party shall be wholly or partially prevented from performing hereunder, by reason of strike, fire, flood, drought, low water, accident, act of government (including regulatory agencies), or any other cause beyond its reasonable control, then and in such event neither party shall be liable to the other during such period of failure, prevention or interruption.

(b) The parties expressly understand and agree that in no event shall either party be liable to the other party for any indirect or consequential damages.

6. Meters and Backflow Preventers. The System shall be responsible for maintaining all master meters and pit locations for wholesale purchasers. Said meters shall remain the property of the System and shall be at all times, upon the request of the provided party, subject to such tests as may be necessary to establish their commercial accuracy. The City will be required to maintain reduced pressure backflow preventers on its service lines at points acceptable to the System and the City. The City shall be responsible for constructing and maintaining pits with natural drains to house the backflow preventers. Said preventers and pits shall be in accordance with DHEC specifications. Both parties shall have a Backflow Prevention Program in place and approved by DHEC.

7. Additional Transmission Mains.

(a) Both parties acknowledge that the System will be required to construct additional transmission mains and extensions to existing Transmission Mains (such additional transmission mains and extensions shall be referred to as the "Additional Transmission Mains") to "loop" or otherwise bypass the present retail service area of the City in order for the System to provide adequate service to its wholesale customers and to remove the System's wholesale customers from the City Transmission Mains. The System agrees to construct such Additional Transmission Mains and incur additional revenue debt for such purposes, and the City does hereby agree and consent to the construction of the Additional Transmission Mains to be owned and operated by the System. The Additional Transmission Mains shall be of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8) to transport and distribute potable water. Such construction shall commence within 5 years from the date hereof, provided the construction costs of such Additional Transmission Mains do not exceed \$5,000,000 (such amount to be increased on each anniversary hereof by 10%, compounded each anniversary). Pursuant to and in accordance with the provisions of Section 3.09 of the Water Purchase Agreement, the City hereby consents to such construction and agrees to pay its part of the debt service (as determined on Exhibit A to the Water Purchase Agreement) associated with the construction of any such Additional Transmission Mains.

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(b) In addition, the City agrees to provide, upon request of the System and at no charge, full assistance and cooperation in obtaining rights-of-way or easements, whether over property of the City or third parties, where necessary or appropriate for the Additional Transmission Mains or for water tank sites.

(c) It is understood and agreed that the System's rights and interests in the City Transmission Mains and the Water Tanks and Booster System (as defined in paragraph 8 below) under this Agreement will terminate upon the connection to the Additional Transmission Mains by all of the System's wholesale customers (identified in paragraph 7 of the Background Statement).

(d) It is understood and agreed that, upon any partial looping of the City's retail service area, the System may elect, in its sole discretion, to remove wholesale customers from the City Transmission Mains.

(e) Prior to the termination of this Agreement upon the connection to the Additional Transmission Mains by all of the System's wholesale customers, the City and the System shall negotiate in good faith to execute and deliver a mutually satisfactory "mutual aid" agreement allowing for the use by the City and the System of each other party's Transmission Mains as a temporary backup supply of water during emergencies at any time after this Operating Agreement is terminated.

8. Water Tanks and Booster Station. The System agrees to lease the Bolt Drive water tank, the Owens Corning water tank, the Whitehall Road water tank and the Homeland Park Booster Station located at Hillman Drive (collectively, the "Water Tanks and Booster Station") from the City, at a rate of \$1.00 per year for a term of 99 years; provided, however, that upon completion of Additional Transmission Mains that are of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8), such leases shall terminate. These leases (the "Water Tank and Booster Station Leases") shall provide the System with the right to abandon the leases at any time with no penalty. The Water Tank and Booster Station Leases shall be in the form of the Lease Agreement between Clemson University and Duke Power Company, dated February 3, 1971, which provides for the lease of a certain parcel of land in Pickens County, South Carolina. However, the Lease Agreement between Clemson University and Duke Power Company only provides for the leasing of the real property upon which such tank is located. The Water Tank and Booster Station Leases shall provide that the Water Tanks and Booster Station shall be maintained by the City and shall be operated by the System in accordance with past practices using the System's SCADA equipment (or any successor operating system), and the Water Tank and Booster Station Leases shall contain such other provisions relating to the operation and maintenance of the Water Tanks and Booster Station as are agreed by the parties.

9. Governing Law. The execution, interpretation and performance of this Agreement shall be governed by the internal laws and judicial decisions of the State of South Carolina.

10. Severability. If any provision of this Agreement shall be held invalid or unenforceable, the remainder shall nevertheless remain in full force and effect.

11. Successors and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of the parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party hereto.

12. Approval by Commissioners of the System. This Agreement may be amended, modified or supplemented only by written agreement of the System and the City and, notwithstanding anything in this Agreement to the contrary, no such amendment, modification or supplement to this Agreement may be made by the System without first obtaining the affirmative vote of the holders of sixty percent (60%) of the votes entitled to be cast by all of the Commissioners of the System other than the Commissioners appointed by the City.

13. 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.

14. Entire Agreement. This Agreement constitutes the entire understanding among the parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. No party hereto has relied, or will rely, upon any oral or written representation or oral or written information made or given to such party by any representative of the other party or anyone on its behalf.

15. Disputes. Either party may apply to the circuit courts of the State of South Carolina for temporary or permanent injunctive relief due to a breach of this agreement which relief may include, inter alia, mandatory, emergency relief. Notwithstanding the foregoing, any disputes between the parties hereto under the provisions hereof may be settled in accordance with the provisions of Section 5 02 of the Water Purchase Agreement

16. Notice Provision. Any notice or other communication permitted or required by this Agreement shall be in writing and shall be deemed given when delivered by hand or by facsimile transmission or upon receipt by the addressee when deposited in the United States mail, first class postage pre-paid, and if to the City of Anderson addressed to:

City of Anderson

Facsimile Number: _____

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And if to the System, addressed to:

Anderson County Joint Municipal Water System

Facsimile Number: _____

Unless a different address shall have been designated by the respective entity by notice in writing.

17. Term. This Agreement shall be effective for a term of 99 years from the date hereof, provided, however, that this Agreement shall immediately terminate upon the construction of Additional Transmission Mains that are of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8).

18. Effectiveness. This Agreement shall be effective only upon the closing of the transactions contemplated by those certain purchase agreements between Duke Energy Corporation and the City and the System relating to the sale of the water system in Anderson County, South Carolina.

EXECUTION PAGE FOLLOWS

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF ANDERSON

By: _____
Title: _____

ANDERSON COUNTY JOINT
MUNICIPAL WATER SYSTEM

By: _____
Title: _____

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Execution Copy

DISCLOSURE SCHEDULES

to

ASSET SALE AGREEMENT

dated as of February 20, 2002

by and between

DUKE ENERGY CORPORATION

and

THE CITY OF ANDERSON

These Disclosure Schedules are entered into in connection with the execution of the Asset Sale Agreement, dated as of February 20, 2002, by and between DUKE ENERGY CORPORATION and THE CITY OF ANDERSON. Capitalized terms used without definition herein have the meanings assigned to them in the Asset Sale Agreement. No item or information included in these Disclosure Schedules shall be construed to establish, in whole or in part, any standard of disclosure or materiality for purposes of these Disclosure Schedules or the Asset Sale Agreement.

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City of Anderson Atty.

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Schedule 1.1

Permitted Liens

None.

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Schedule 5.3

Required Consents

Contracts

None.

Permits

None.

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Schedule 5.5

Certain Contracts and Arrangements.

Water Service Agreements

1. Memorandum of Agreement, dated April 4, 1967, by and between Duke Power Company and Dow Badische Company.
2. Water Service Agreement, dated April 1, 1990, by and between Duke Power Company and Owens-Corning Fiberglas Corporation.
3. Water Service Agreement, dated April 7, 1995, by and between Duke Power Company and Plastic Omnium Industries, Inc.
4. Memorandum of Agreement, dated December 12, 1977, by and between Duke Power Company and Stauffer Chemical Company.
5. Agreement, dated August 10, 1987, by and between Duke Power Company and Culp Woven Velvets, Inc.
6. Water Service Agreement, dated July 3, 2000, by and between Duke Water Systems and Michelin North America, Inc.

Other Contracts and Agreements

1. All outstanding commitments made to extend service exclusively related to the Retail Business and all existing and unexpired refund agreements exclusively related to the Retail Business entered into pursuant to the Duke Power Company Water Department Service Regulations, dated July 10, 1990, filed with the South Carolina Public Service Commission.
2. Fire Protection Water Service Agreement, dated January 27, 1989, by Duke Power Company and Anderson Tie Station.¹

The rights and obligations of Anderson Tie Station, the "Customer" under the agreement are to remain with the Seller

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Schedule 5.6

Litigation

1. On April 12, 1997, a service vehicle of the Seller was involved in an accident with an automobile on South McDuffie Street in Anderson, South Carolina. Leroy Jefferson, a passenger in the automobile, has filed a personal injury lawsuit against the Seller seeking an undetermined amount in damages. Any recovery by Mr. Jefferson in this lawsuit is expected to be covered fully by the Seller's liability insurance.
2. On March 22, 2001, Star Company of Anderson, Inc. filed a complaint against the Seller in the Court of Common Pleas in Anderson County, South Carolina in which Star Company of Anderson, Inc. alleged unfair trade practices, tortious interference with contract, intentional interference with prospective contract and defamation in connection with the construction of a water line to serve a location on the Route 28 Bypass in Anderson, South Carolina.

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Schedule 5.8

Labor Matters

Collective Bargaining Agreement

1. Agreement, dated October 1, 1999, by and between Duke Power Company and Local Union 962 International Brotherhood of Electrical Workers.

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Schedule 5.11(a)

Permits

None.

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Schedule 5.13**Condemnations**

1. After disclosure of the Seller's plans to divest the Retail Business, certain officials of the Buyer threatened that the Buyer might not renew its service agreement with the Seller upon its expiration in 2009 and also threatened that the Buyer might exercise its power of eminent domain with respect to the Real Property and other Retail Assets located in Anderson, South Carolina.

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Schedule 5.16**Environmental Matters**

1. The matters disclosed in the Health & Hygiene asbestos inspection reports, dated April 21, 1995, relating to the Anderson Water Plant Office/Warehouse.
2. The matters disclosed in the Duke Power Soil Sample Analysis results report, dated July 5, 2001, relating to the Mauldin Street Water Tank Property.
3. The matters disclosed in the QORE Property Sciences Soil Lead Testing Results report, dated July 5, 2000, relating to the Mauldin Street Tank, QORE Job No. 5771, Report No. 77735.

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OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the "Agreement") dated as of this 25th day of February, 2002, is by and between the City of Anderson, an incorporated municipality in the State of South Carolina (the "City"), and the Anderson County Joint Municipal Water System, a public body corporate and politic of the State of South Carolina ("System").

BACKGROUND STATEMENT

1. The System owns and operates certain water transmission mains in Anderson County, South Carolina (the "System Transmission Mains").
2. The City owns and operates certain water transmission mains located within and outside the City's corporate limits (the "City Transmission Mains").
3. The System Transmission Mains and the City Transmission Mains may hereafter be collectively referred to as the "Transmission Mains". Both the System Transmission Mains and the City Transmission Mains are shown on Exhibit A and Exhibit A-1 attached hereto, incorporated herein, and made a part of this Agreement.
4. The System sells water to the City on a wholesale basis using the Transmission Mains.
5. The City Transmission Mains also serve multiple other wholesale purchasers of the System and are therefore not operated exclusively for the benefit of the City.
6. The Transmission Mains also are integral parts of the City's retail water system and are therefore not operated exclusively for the benefit of the System.
7. The construction of Additional Transmission Mains (as described in paragraph 7(a) of this Agreement) is a common goal of each party and the construction thereof will be equally beneficial to the City and the System. Presently, potable water is transported and distributed to certain of the System's wholesale customers (West Anderson Water District, Homeland Park Water District, Starr-Iva Water and Sewer District, Broadway Water and Sewerage District, Hammond Water District) through the City Transmission Mains. The Additional Transmission Mains will allow the System to transport and distribute potable water to these wholesale customers without the need of the City Transmission Mains.
8. The parties hereto desire to enter into an agreement regarding the use, operation, maintenance, and other matters involving the System Transmission Mains, the City Transmission Mains, and the Additional Transmission Mains recognizing the needs of the System and the City.
9. This Agreement is necessary to allow each of the parties to finance the acquisition of their water systems from Duke Energy Corporation through the issuance of long-term revenue bonds.



Handwritten signatures and initials: "ls", "205", and "AKB".

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STATEMENT OF AGREEMENT

In consideration of the mutual agreements between the parties as set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Right to Use; Connections.

(a) In order to enable the System to perform its obligations under that certain Water Sale and Purchase Agreement to be executed between the System, the City and certain other municipalities and special purpose districts that are members of the System (the "Water Purchase Agreement"), the System is hereby granted the right to utilize the City Transmission Mains and related facilities necessary for the purpose of transporting and distributing potable water to the City and its other wholesale customers. The City hereby covenants not to interfere, obstruct or impede this right of use for water transmission purposes.

(b) In order to enable the City to perform its obligations to provide water to its retail customers, the City is hereby granted the right to utilize all Transmission Mains and related facilities necessary for the purpose of transporting and distributing potable water to its retail customers. The System hereby covenants not to interfere, obstruct or impede this right of use for water transmission purposes to the City's retail customers.

(c) Each party hereby agrees that the primary use of the Transmission Mains is to provide for the transportation and distribution of potable water for the benefit of the City's retail customers and the System's wholesale customers. There will be no charges or tariffs for the use of the Transmission Mains by the owner of the Transmission Mains to the other party. Subject to the limitations of Section 3 hereof to the Statement of Agreement portion of this Agreement, each party is entitled to make connections to the Transmission Mains free of charge provided, however (i) that such connection is made in good faith for the sole purpose of serving customers of the party making the connection, i.e., it is for actual use; (ii) such connection is for a line of at least six inches in diameter; (iii) such connection is to serve customers in the connecting party's service area; (iv) the party requesting the tap must obtain a certificate of availability of capacity (the "Certificate") from the System before any work is commenced, it being understood that the System will not unreasonably refuse to issue, or unreasonably delay issuing, such a Certificate to the City. The request for such Certificate shall set forth the size of the line, projected water demand and location of the water customer(s), the location of the line and tap, the projected completion date of preparatory work, and a cost estimate of the tap; and (v) the System makes a determination of the effect, if any, that such connection will have on the transportation and distribution of water to customers served by the Transmission Mains. In the event the System determines, in its reasonable discretion, that the requested connection will adversely affect the ability of the System to transport and distribute water to customers, both retail and wholesale, being served by the Transmission Mains, then such tap or connection shall not be made until System

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improvements can be implemented that will mitigate any negative conditions that were anticipated as a result of the connection request all pursuant to and in accordance with the provisions of Section 3.09 of the Water Purchase Agreement.

(d) The City shall be entitled to tap the City Transmission Mains for lines that are less than six inches in diameter for the purpose of serving customers in the City's service area, provided that, for each such tap, (i) the City must give the System three business days' prior written notice of the City's intention to tap into the City Transmission Main, which notice shall include the size of the line to be connected, the projected water demand through the line, the location of the line and the tap, and the projected completion date of the tap, and (ii) the System does not, within two business days after receiving such written notice, notify the City that the System has determined that such a tap will adversely affect the ability of the System to transport and distribute water to customers.

(e) At any time that a connection is made to a System Transmission Main, the System shall determine whether a master meter must be installed.

2. Operation and Maintenance.

(a) Each owner agrees to pay all costs (including operational, maintenance, repairs and capital costs) involved in keeping the Transmission Mains owned by such party in good working order and condition, and to keep such Transmission Mains operational at all times. This includes the obligation to pay all costs related to the maintenance and operation of water facilities which are not Transmission Mains, including hydrants, but which are necessary, useful or appropriate in order to keep the Transmission Mains in good working order and operational and which water facilities are owned by the party who is responsible for such costs.

(b) In the event an owner of a Transmission Main does not maintain such Transmission Main in good working order and condition, the other party to this Agreement is hereby authorized to make any necessary repairs or perform such acts as are required to keep the Transmission Main in good working order; provided, however, prior to taking any such action, the party who is not the owner must give the owner written notice of such deficiency and a period of ten days, except in an emergency, shall have elapsed from the date of such notice with no remedial action undertaken by the owner during such period. The owner of the Transmission Main shall be responsible for the costs of any such repair.

(c) Each party hereby agrees that it will endeavor to use such efforts as are commercially reasonable and available in the operation and maintenance of the Transmission Mains owned by each party, so as to prevent the disruption of service to the other party's customers. To the extent it is reasonably possible to do so, each party will provide the other party with advance notice of any activities such party anticipates it needs to undertake in the operation and maintenance of the Transmission Mains owned by such party, which activities can be reasonably expected to disrupt service to the other party's customers.

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3. Procedure for New Connections. The following procedure applies to any request by either the City or the System to tap into any part of a Transmission Main owned by the other party:

(a) Upon receipt of the Certificate from the System, as provided in (1)(c)(iv) herein, the party desiring to tap into a Transmission Main that it does not own (the "Connecting Party") will undertake and be responsible for all preparatory work to make the connection to the other party's Transmission Main, including excavation, location and avoidance of disruption of all other utilities, shoring, and work zone safety;

(b) Upon proper completion of the preparatory work, the Connecting Party will notify the owner of the Transmission Main (the "Owner Party"), and the Owner Party shall make a tap into the Transmission Main and furnish all material necessary to make the tap into the Transmission Main (including the tapping sleeve and valve). The Owner Party will perform such work in accordance with all applicable laws and regulations, but is not responsible for any other work (including, but not limited to, the location or quality of the new line to be connected to the Transmission Main, which shall be Connecting Party's responsibility);

(c) The Connecting Party will be responsible for furnishing and installing the valve box and riser in accordance with drawings and specifications which must be previously approved by the Owner Party and will be responsible for backfilling the excavation and asphalt or concrete repair;

(d) The Connecting Party will reimburse the Owner Party for its actual cost of labor and materials within thirty (30) days after receipt of an invoice from the Owner Party for such labor and materials. Any amount unpaid after the due date shall accrue interest at 8% per annum until paid;

(e) The Connecting Party agrees to indemnify, defend and hold harmless the Owner Party against all demands, claims, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees, asserted against or suffered or incurred by the Owner Party which result from the Connecting Party's activities in connecting to the Owner Party's Transmission Main; and

(f) Each party agrees to perform all work, including all preparatory work, in accordance with all applicable laws and regulations; including the South Carolina Department of Health and Environmental Control ("DHEC"), the South Carolina Department of Transportation and the Occupational Safety & Health Administration regulations.

4. Conveyance of Transmission Mains Upon Abandonment. Should any of the System Transmission Mains in the City's service area be abandoned by the System, the System agrees to convey the abandoned System Transmission Mains to the City at no cost. The City agrees, however, to reimburse the System for all expenses (including reasonable attorneys' fees) incurred in connection with such conveyance.

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5. Force Majeure: Limitations of Liability.

(a) In the event either party shall be wholly or partially prevented from performing hereunder, by reason of strike, fire, flood, drought, low water, accident, act of government (including regulatory agencies), or any other cause beyond its reasonable control, then and in such event neither party shall be liable to the other during such period of failure, prevention or interruption.

(b) The parties expressly understand and agree that in no event shall either party be liable to the other party for any indirect or consequential damages.

6. Meters and Backflow Preventers. The System shall be responsible for maintaining all master meters and pit locations for wholesale purchasers. Said meters shall remain the property of the System and shall be at all times, upon the request of the provided party, subject to such tests as may be necessary to establish their commercial accuracy. The City will be required to maintain reduced pressure backflow preventers on its service lines at points acceptable to the System and the City. The City shall be responsible for constructing and maintaining pits with natural drains to house the backflow preventers. Said preventers and pits shall be in accordance with DHEC specifications. Both parties shall have a Backflow Prevention Program in place and approved by DHEC.

7. Additional Transmission Mains.

(a) Both parties acknowledge that the System will be required to construct additional transmission mains and extensions to existing Transmission Mains (such additional transmission mains and extensions shall be referred to as the "Additional Transmission Mains") to "loop" or otherwise bypass the present retail service area of the City in order for the System to provide adequate service to its wholesale customers and to remove the System's wholesale customers from the City Transmission Mains. The System agrees to construct such Additional Transmission Mains and incur additional revenue debt for such purposes, and the City does hereby agree and consent to the construction of the Additional Transmission Mains to be owned and operated by the System. The Additional Transmission Mains shall be of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8) to transport and distribute potable water. Such construction shall commence within 5 years from the date hereof; provided the construction costs of such Additional Transmission Mains do not exceed \$5,000,000 (such amount to be increased on each anniversary hereof by 10%, compounded each anniversary). Pursuant to and in accordance with the provisions of Section 3.09 of the Water Purchase Agreement, the City hereby consents to such construction and agrees to pay its part of the debt service (as determined on Exhibit A to the Water Purchase Agreement) associated with the construction of any such Additional Transmission Mains.

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(b) In addition, the City agrees to provide, upon request of the System and at no charge, full assistance and cooperation in obtaining rights-of-way or easements, whether over property of the City or third parties, where necessary or appropriate for the Additional Transmission Mains or for water tank sites.

(c) It is understood and agreed that the System's rights and interests in the City Transmission Mains and the Water Tanks and Booster System (as defined in paragraph 8 below) under this Agreement will terminate upon the connection to the Additional Transmission Mains by all of the System's wholesale customers (identified in paragraph 7 of the Background Statement).

(d) It is understood and agreed that, upon any partial looping of the City's retail service area, the System may elect, in its sole discretion, to remove wholesale customers from the City Transmission Mains.

(e) Prior to the termination of this Agreement upon the connection to the Additional Transmission Mains by all of the System's wholesale customers, the City and the System shall negotiate in good faith to execute and deliver a mutually satisfactory "mutual aid" agreement allowing for the use by the City and the System of each other party's Transmission Mains as a temporary backup supply of water during emergencies at any time after this Operating Agreement is terminated.

8. Water Tanks and Booster Station. The System agrees to lease the Bolt Drive water tank, the Owens Corning water tank, the Whitehall Road water tank and the Homeland Park Booster Station located at Hillman Drive (collectively, the "Water Tanks and Booster Station") from the City, at a rate of \$1.00 per year for a term of 99 years; provided, however, that upon completion of Additional Transmission Mains that are of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8), such leases shall terminate. These leases (the "Water Tank and Booster Station Leases") shall provide the System with the right to abandon the leases at any time with no penalty. The Water Tank and Booster Station Leases shall be in the form of the Lease Agreement between Clemson University and Duke Power Company, dated February 3, 1971, which provides for the lease of a certain parcel of land in Pickens County, South Carolina. However, the Lease Agreement between Clemson University and Duke Power Company only provides for the leasing of the real property upon which such tank is located. The Water Tank and Booster Station Leases shall provide that the Water Tanks and Booster Station shall be maintained by the City and shall be operated by the System in accordance with past practices using the System's SCADA equipment (or any successor operating system), and the Water Tank and Booster Station Leases shall contain such other provisions relating to the operation and maintenance of the Water Tanks and Booster Station as are agreed by the parties.

WES *Opp*

9. Governing Law. The execution, interpretation and performance of this Agreement shall be governed by the internal laws and judicial decisions of the State of South Carolina.

10. Severability. If any provision of this Agreement shall be held invalid or unenforceable, the remainder shall nevertheless remain in full force and effect.

11. Successors and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of the parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party hereto.

12. Approval by Commissioners of the System. This Agreement may be amended, modified or supplemented only by written agreement of the System and the City and, notwithstanding anything in this Agreement to the contrary, no such amendment, modification or supplement to this Agreement may be made by the System without first obtaining the affirmative vote of the holders of sixty percent (60%) of the votes entitled to be cast by all of the Commissioners of the System other than the Commissioners appointed by the City.

13. 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.

14. Entire Agreement. This Agreement constitutes the entire understanding among the parties hereto, superseding any and all previous understandings, oral or written, pertaining to the subject matter contained herein. No party hereto has relied, or will rely, upon any oral or written representation or oral or written information made or given to such party by any representative of the other party or anyone on its behalf.

15. Disputes. Either party may apply to the circuit courts of the State of South Carolina for temporary or permanent injunctive relief due to a breach of this agreement which relief may include, inter alia, mandatory, emergency relief. Notwithstanding the foregoing, any disputes between the parties hereto under the provisions hereof may be settled in accordance with the provisions of Section 5.02 of the Water Purchase Agreement.

16. Notice Provision. Any notice or other communication permitted or required by this Agreement shall be in writing and shall be deemed given when delivered by hand or by facsimile transmission or upon receipt by the addressee when deposited in the United States mail, first class postage pre-paid, and if to the City of Anderson addressed to:

City of Anderson

401 South Main Street

Anderson, South Carolina 29624

Attn: John R. Moore, Jr.

Facsimile Number: (864) 231-2200 ⁷⁸⁵⁴

7/16/13 [Signature] JRM

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And if to the System, addressed to:

Anderson County Joint Municipal Water System
314 Tribble Street
Anderson, South Carolina 29625
Facsimile Number: (864) 646-6188

Unless a different address shall have been designated by the respective entity by notice in writing.

17. Term. This Agreement shall be effective for a term of 99 years from the date hereof; provided, however, that this Agreement shall immediately terminate upon the construction of Additional Transmission Mains that are of sufficient size and capacity as recommended in writing by the System's consulting engineers to enable all of the System's wholesale customers (identified in paragraph 7 of the Background Statement) to receive an adequate supply of potable water for distribution to their respective customers and future customers as forecasted or demonstrated by the wholesale customer or the System without utilizing the City Transmission Mains and the Water Tanks and Booster Station (as defined in paragraph 8).

18. Effectiveness. This Agreement shall be effective only upon the closing of the transactions contemplated by those certain purchase agreements between Duke Energy Corporation and the City and the System relating to the sale of the water system in Anderson County, South Carolina.

EXECUTION PAGE FOLLOWS

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF ANDERSON

By: Richard A. Hurley

Title: Mayor

By: [Signature]

Title: City Planner

ANDERSON COUNTY JOINT
MUNICIPAL WATER SYSTEM

By: Alton R. B. [Signature]

Title: Chairman

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Exhibit A-1 to the OPERATING AGREEMENT

The System Transmission Mains are the following:

- a) The 30" line from the Water Treatment Plant to S.C. 28 Bypass along Old Pearman Dairy Road, Dixon Road and Whitehall Road.
- b) The 24" line from the Water Treatment Plant to the vicinity of Lake Hartwell and Clemson Boulevard along Old Pearman Dairy Road, S.C. 28 Bypass and Clemson Boulevard.
- c) The 16" line along S.C. 28 Bypass from the 30" line on Whitehall Road to the 24" line on Old Pearman Dairy Road.

The City Transmission Mains are the following:

- a) The 20" and 12" lines from the 24" line on Clemson Boulevard to a Hammond Metering Station following Clemson Boulevard and Brown Road.
- b) The 30" and 24" lines along S.C. 28 Bypass from Whitehall Road to a Homeland Park Metering Station.
- c) The 12" line along S.C. Highway 24 from the 24" line on S.C. 28 Bypass to a West Anderson Metering Station.
- d) The 24" line along S.C. Highway 29 S. from the 24" line on S.C. 28 Bypass to the Starr Iva Metering Station.
- e) The 16" line along Sayre Street, Main Street, Falstaff Street, Stewart Circle, White Street, E. River Street, Caughlin Street, Hudgens Street, Sears Street, Marion Street and Wildwood Drive from the 24" line on S.C. 28 Bypass to East Calhoun Street.
- f) The 12" line along East Calhoun Street and Marchbanks Avenue from the 16" line on Wildwood to a Hammond Metering Station.
- g) The 12" line along E. Orr Street (Old Williamston Road) from the 16" line at Wildwood Drive to a Hammond Metering Station.
- h) The 12" line along E. River Street to Broadway Metering Station, 6" line along Bolt Drive to the 16" line at Plantation Drive, and the 16" line from Plantation Drive to the Bolt Drive Water Tank.
- i) The 12" and 10" lines along Major Drive, S. Main Street, Hillman Drive, Woodcone Terrace, and cross-country from the 24" line on S.C. 28 Bypass to the Owens Corning Tank.
- j) The 12" and 14" lines along Whitehall Road, Pope Drive, Frederick Street, Lane Avenue, Bellview Road, Bannister Street, Boulevard Heights, North Boulevard, Ridgecrest Avenue, and Kingsley Road from the 30" line on S.C. 28 Bypass to the 12" line on Calhoun Street.
- k) The 12" line along U.S. Highway 29 and cross-country from the 12" line on E. River Street to the 12" line on E. Orr Street.

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- l) The 12" line along Bellhaven Road from the 12" line on Plantation Road to the 12" line on U.S Highway 29.

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for [signature] OK

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WATER SALE AND PURCHASE AGREEMENT

among the

ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM

and

The Municipalities of Anderson, Clemson, Pendleton and Williamston

and the Special Purpose Districts of

The Big Creek Water and Sewerage District of Anderson County,
The Broadway Water and Sewerage District of Anderson County,
Hammond Water District, Homeland Park Water District,
Powdersville Water District, Sandy Springs Water District,
Starr-Iva Water and Sewer District, and West Anderson Water District

Dated as of March 21, 2002



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This **WATER SALE AND PURCHASE AGREEMENT** made as of this 21st day of March, 2002, by and among the **ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM**, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 et seq., Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell, certain transmission mains which transport treated water from this Plant to various areas in Anderson County and a small area in Pickens County and related facilities (the "Duke Facilities"). The Duke Facilities, together with certain water transmission facilities that the City of Anderson is purchasing from Duke Energy Corporation ("Duke Energy"), have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District;

Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District. In addition, Duke Energy has also, on a retail basis, provided potable water within and without the corporate limits of the City of Anderson, to Clemson University and to certain other commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire the Duke Facilities and the City of Anderson has negotiated an agreement with Duke Energy whereby it will acquire certain transmission mains, storage tanks and related facilities. In order to insure its ability to serve certain of the Purchasers with potable water in accordance with the requirements of this Agreement, Seller entered into an Operating Agreement on February 25, 2002 (the "Operating Agreement") with the City of Anderson for the provision of the operation of certain transmission mains and related facilities which are being acquired by the City of Anderson. In order to serve Clemson University, Seller will enter into a separate agreement with Clemson University which will purchase water on a wholesale basis from Seller. Simultaneously with the transfer of the Duke Facilities to the Seller, the City of Anderson is acquiring the afore-mentioned transmission facilities from Duke Energy and the special purpose districts of The Broadway Water and Sewerage District of Anderson County and West Anderson Water District are acquiring certain facilities from Duke Energy.

It is presently intended by the parties hereto that the City of Anderson will serve (1) two industries, BASF and Owens-Corning, located within the boundaries of Starr-Iva Water and Sewer District; and (2) the industrial facilities of Michelin, which are located within the boundaries of West Anderson Water District. Both Starr-Iva Water and Sewer District and West Anderson Water District consent to the City of Anderson's providing such service to these industries. However, such

consent is strictly limited to the provision of service to these named industrial customers and no further provision of service by the City of Anderson shall be made to any customer located within the boundaries of Starr-Iva Water and Sewer District or within West Anderson Water District without the written consent of such Purchaser.

The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Each of the Purchasers has determined that it is in the best interests of its customers and residents located within its respective service area to participate in the acquisition by Seller of the Duke Facilities by becoming a member of Seller and to purchase certain rights to the use of the Duke Facilities. By joining together, economies of scale can be achieved and each Purchaser will be able to acquire a safe and secure source of potable water. Each Purchaser, recognizing the benefits to be gained by such joint action, has determined, pursuant to the provisions of this agreement, to purchase the right to receive a specified allocated capacity defined in terms of millions of gallons of potable water per day and to pay for such amount of potable water by assuming the responsibility for a corresponding amount of the debt service on bonds issued by Seller to defray the acquisition of the Duke Facilities. As a means of providing sufficient security to the holders of such bonds all

members have agreed to share on a pro rata basis certain of the obligations of each Purchaser under the provisions of this agreement on a "step-up" basis. Such arrangement will insure that the financing of the acquisition of the Duke Facilities will be achieved at the lowest possible cost and that the Duke Facilities once acquired will remain under the control and operation of the Purchasers executing this agreement.

Hence, this agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

"Additional Capital Charge" means one twelfth (1/12) (or, with respect to the period prior to the first principal payment date on an issue of Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year or any period prior to the first Bond Year multiplied by a Purchaser's Allocated Pumping Percentage.

"Agreement" means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

"Allocated Capacity" means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Purchasers are set forth in Exhibit "A" hereto. Allocated Capacity is expressed in million gallons per day ("MGD") and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24) hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

"Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing a Purchaser's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit "A."

"Allocated Pumping Percentage" means with respect to a Pumped Purchaser, the percentage that will be contributed pursuant to the terms of this Agreement for payment of its pro rata portion of the System which will especially benefit such Pumped Purchaser due to pumping requirements.

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal

and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.13 hereof.

"Arbitration Panel" means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

"Board" means the Board of Commissioners of Seller, the governing body of Seller.

"Bonds" means (A) those bonds initially issued by Seller to acquire the System, (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

"Bond Year" means the period of time beginning the sixteenth day of July in each year and ending the fifteenth day of July in the next succeeding year.

"Booster Pump Stations" means all facilities owned by the System and directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

"Capital Charge" of a Purchaser means one twelfth ($1/12$) (or, with respect to the period prior to the first principal payment date on an issue of Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year or any period prior to the first Bond Year multiplied by a Purchaser's Allocated Percentage.

"Consulting Engineers" shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

"Facilities" means the assets purchased by the Seller from Duke Energy and which include the Plant, related transmission pipes and elevated tanks, machinery and equipment and any replacement or substitute facilities, as well as any improvements made to the Facilities from time to time and all additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include the Booster Pump Stations or any facilities owned or operated by a Purchaser as a part of its distribution system.

"Facilities Renewal and Replacement Fund" means the Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

"Fiscal Year" means July 1 through June 30 of each year.

"Force Majeure" means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or a Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement.

"Operational Pumping Charge" means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements

of Seller's System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding month to all water delivered to all Pumped Purchasers for the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to each Pumped Purchaser; and for the second twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the first twelve (12) months of delivery of water to the Participants.

"Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

"Participants" means the Purchasers and Clemson University. The term "Participant" includes Pumped Purchasers and those Purchasers who receive water from Seller's System without any requirement of pumping.

"Plant" means Seller's existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

"Potable Water" means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

"Pumped Purchaser" means a Participant who has been assigned and allocated an Allocated Pumping Percentage as set forth on Exhibit A attached hereto.

"Pumping Depreciation Charge" means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

"Pumping Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchasers for that Fiscal Year.

"Pumping Facilities Renewal and Replacement Fund" means the Pumping Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.04 of this Agreement.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" or "Purchasers" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

"Purchaser's System" means the water distribution system of a Purchaser or in the instance of a Purchaser that owns a combined water and sewer system such definition means such combined water and sewer system.

"Seller" means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

"Seller's Bond Resolution" means a resolution entitled "A Resolution Providing for the Issuance and Sale of Waterworks System Revenue Bonds of Anderson County Joint Municipal Water System, South Carolina and other Matters Relating Thereto," adopted April, 2002.

"Seller's System" or "System" means the waterworks system of the Seller, including all of the Facilities and the Booster Pump Stations and any improvements or expansions which may be made to the Facilities and the Booster Pump Stations from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Facilities Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that it will acquire, own and operate the System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell, as evidenced by the Contract between the United States of America and Duke Power Company, a Corporation for Water Storage Space in Hartwell Reservoir dated June 2, 1967 as the same was assigned to the Seller pursuant to the provisions of the Transfer and Assignment of Contract No. DACW21-67-C-0011 Between the United States of America and Duke Power Company, a Corporation for Water Storage Space in Hartwell Reservoir dated April 5, 2002.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be

issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate; does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as a Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from a Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Each Purchaser. Each Purchaser hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina owning and operating such Purchaser's System which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this

Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations. Each Purchaser covenants and agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection therewith, each Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be

conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by such Purchaser.

Section 2.06. Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the System and shall extend for an initial period commencing on such date and extending until July 15, 2032 and thereafter, absent receipt of notice from any Purchaser of its intent not to renew, shall be automatically extended for five year periods. In the event a Purchaser intends not to renew at the end of a term, such Purchaser shall notify the Seller of its intent, in writing, not less than six months prior to the end of such term. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water among the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III

SALE AND PURCHASE OF WATER

Section 3.01. Sale of Water.

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Subject to the provisions of Section 3.05 hereof, Potable Water shall be delivered to each Purchaser at a metering site or sites provided by Seller, such site or sites to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site or sites at an appropriate operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water

Regulations (R. 61 - 58). Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared in writing by Seller to each Purchaser.

(B) In the event the Seller determines that a Purchaser is using water in excess of its Allocated Capacity, then such Purchaser shall be notified that it must acquire additional Allocated Capacity under the provisions of either Section 3.10 or Section 3.11 and each Purchaser agrees to acquire such additional Allocated Capacity. During any period of time that the average daily consumption of water by a Purchaser in any month exceeds its Allocated Capacity, such Purchaser shall be subject to a penalty determined and thereafter imposed by the Seller.

(C) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(D) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

Section 3.02. Payment for Water; Absolute Obligation. Beginning in May, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (A) the Capital Charge of such Purchaser, plus
- (B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered from Seller's System for the preceding month, i.e.,

$$\text{Monthly O\&M Payment} = 1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's metered Flow Last Month}}{\text{Total Treated Flow Last Month}} ; \text{ plus}$$

- (C) the System Depreciation Charge, if any.

Beginning in May, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

- (D) the Additional Capital Charge, plus
- (E) the Operational Pumping Charge, plus
- (F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A), (B), (D) and (E) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds, and such interest earnings

have been credited to the appropriate debt service fund; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to each Pumped Purchaser's Allocated Pumped Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Pumped Facilities Renewal and Replacement Fund to the extent such interest earnings have been credited to the appropriate debt service fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any component of the System, any acts or circumstances which may constitute failure of consideration, destruction of or damage to any component of the System, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser to the Seller under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

In the event any payment by a Purchaser to the Seller is insufficient to satisfy the Purchaser's entire then-current obligations under this Agreement, such payments shall be applied in the following order of priority: (1) Capital Charge, (2) Additional Capital Charge, (3) the Purchaser's share of the Operation and Maintenance Expenses, (4) the Operational Pumping Charge, (5) the System Depreciation Charge, if any, and (6) the Pumping Depreciation Charge, if any.

Section 3.03. Priority of Pledge; Additional Obligations.

(A) Each Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's System as hereinafter described is hereby granted to Seller.

(B) Each Purchaser hereby represents that all outstanding debt which is payable from the revenues of such Purchaser's System is set forth on Exhibit B attached hereto. Each Purchaser agrees that the obligations owed to the Seller hereunder constitute obligations of the Purchaser payable as operating expenses of such Purchaser's System.

(C) Purchaser shall not issue bonds, notes or other evidences of indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of such Purchaser's System prior to or superior to such Purchaser's obligation to pay the operating expenses of its respective system (including payments to be made under this Agreement).

(D) Purchaser shall not execute or adopt any instrument securing bonds, notes or other indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of such Purchaser's System unless such instrument provides that any payments to be made under this Agreement shall be payable as operating expenses of such Purchaser's System. This

paragraph (D) shall not apply to any instrument securing bonds, notes or other evidences of indebtedness outstanding on the date of this Agreement.

(E) Nothing contained in this Section 3.03 or any other provision of this Agreement shall be deemed to prevent any Purchaser from entering into contracts with the Seller with respect to the supply of Potable Water which contract payments are payable from the revenues derived from the ownership and operation of such Purchaser's System on a parity with the payments required to be made to Seller pursuant to this Agreement.

Section 3.04. Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01(A)(4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain

liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.04, are received by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04. A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at a Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at such times as the Seller, in its discretion, deems necessary or upon the request of any Purchaser when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter

malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B) hereof for the same month in the preceding calendar year. Any party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. A Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

It is recognized by and among the parties hereto that flow to the City of Anderson's retail system is not currently measured by wholesale master meters. Therefore, the flow to the City of Anderson shall be measured as follows: for the first twelve months of delivery of water by Seller to the City of Anderson, flow will be calculated by adding the sum of all retail, municipal and other meter readings that are part of the City of Anderson's system and said sum shall be multiplied by 1.04. The City of Anderson shall furnish these readings to the Seller on a monthly basis no later than the fifth day of the month. The Seller shall have the right to audit such computations at any time Seller believes an error has been made. During the first twelve months of delivery of water by Seller to the City of Anderson, the Seller and the City of Anderson shall engage an independent third party to study water loss in the City of Anderson's system and to develop a method of billing that is fair and equitable to both the City of Anderson and the Seller. The cost of the study will be paid equally by the City of Anderson and the Seller. The study shall include both the methodology of calculating

the flow and the water loss percentages used in such methodologies. The recommendations included in the independent study results shall be binding on both parties. In the event that the implementation of such recommendations causes retail water rates charged by the City of Anderson to rise by more than four percent, the recommendations shall be phased in over a three-year period.

At such time as wholesale master meters are installed to accurately measure flow to the City of Anderson either in whole or part, alternate billing methods shall no longer be used. The installation of master meters to measure flow to the City of Anderson shall be by mutual agreement with the cost to be paid equally by the City of Anderson and the Seller.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the System in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to

all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchasers' Allocated Capacities.

(A) The cost of future capital improvements for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of the System, shall be shared by the parties hereto on the basis of Allocated Percentages and Allocated Pumping Percentages.

(B) The cost of future capital improvements to extend the useful life of the System, or such improvements as are necessary to maintain all Purchasers' Allocated Capacities for Potable

Water or such other improvements as Seller determines necessary to the proper functioning of the Facilities shall also be shared on the basis of Allocated Percentages and Allocated Pumping Percentages.

(C) The System as it exists on the date hereof and any improvements, extensions and additions necessary to be constructed as capital improvements described in paragraphs (A) and (B) of this Section 3.09 constitute a "project" as such term is used in Section 6-25-110 of the Code of Laws of South Carolina, 1976, as amended ("Section 6-25-110"), and each Purchaser hereby approves the undertaking of such project by the Seller and consents to the issuance of Improvement Bonds of the System for each as part of the "project" and hereby represents that its governing body has specifically approved this provision pursuant to said Section 6-25-110.

(D) In the event the capital costs contemplated by (A) and (B) above would result in a Purchaser's share of such cost exceeding the sum of \$100,000, Seller agrees to finance the capital costs by the issuance of Improvement Bonds.

(E) Purchaser agrees that, to the extent that its share of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Improvement Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its share of such costs.

(F) Seller and each Purchaser acknowledges that pursuant to agreements entered into by and between the Seller and Duke Energy and by and between the City of Anderson and Duke Energy, the ownership of many of the transmission mains through which the Seller will transport water to Purchasers will be vested in the City of Anderson. Due to such circumstance, Seller (1) has entered into an Operating Agreement dated February 25, 2002, with the City of Anderson in order to insure

its capability of providing water to each Purchaser in accordance with the provisions of this Agreement and (2) has determined immediately to commence the design and construction of additional transmission mains to "loop" the present retail service area of the City of Anderson. The Seller does hereby specifically agree, not later than September 15, 2002, to commence an engineering study which will provide for the design, location and estimated costs of these additional lines. As provided in paragraph 7 of the Operating Agreement, the City of Anderson has consented to the initial construction of such additional lines provided the costs thereof do not exceed \$5,000,000 (such amount to be increased on each anniversary of the Operating Agreement by 10% compounded each anniversary) and provided construction commences within five years of the date of the Operating Agreement. Each Purchaser does hereby consent to the issuance of Improvement Bonds by the Seller to the extent and under the conditions set forth above and agrees such additional lines constitute a "project" as such term is used in Section 6-25-110 and agrees to the undertaking of such "project" by the Seller and hereby represents that its governing body has specifically approved this provision pursuant to said Section 6-25-110. Seller does hereby consent and agree to issue Improvement Bonds of the System for the purposes stated and to the extent stated by the language of this paragraph (F).

Section 3.10. Expansion of the System to Provide Additional Capacity.

(A) It is the intention of the parties hereto that additional capacity as shall be needed by the respective parties shall be made available from time to time with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the

time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the System necessary to provide the additional capacity requested by this Section 3.10 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

(ii) Seller shall not be required to add capacity to the System in increments of less than two million (2,000,000) gallons; provided, however nothing in this paragraph (ii) prohibits the Seller and any Participant from agreeing to any particular increment of additional capacity to be so constructed;

(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities, Allocated Percentages and, if applicable, Allocated Pumping Percentages required as a result of any increase in the capacity of the System or the installation of any additional improvements to the System in which the parties hereto participate on a basis other than their original Allocated Percentages and, if applicable, Allocated Pumping Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the System, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

(i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an

amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV

RENEWAL AND REPLACEMENT FUNDS

Section 4.01. Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements,

betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds, a debt service reserve fund established for an issue of Bonds, or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund.

in accordance with Section 4.02 hercof and shall notify each Purchaser that a monthly System Depreciation Charge will be due. Such notice shall state the period during which a System Depreciation Charge will be due which period shall be not less than nine months.

Section 4.04. Pumping Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund. All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hercof and not used to fund a debt service fund established for an issue of Bonds, a debt service reserve fund established for an issue of Bonds, or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement

Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on its Allocated Pumping Percentage. In the event a deficit has occurred in the Pumping Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due. Such notice shall state the period during which a Pumping Depreciation Charge will be due which period shall be not less than nine months.

(End of Article IV)

ARTICLE V

EVENTS OF DEFAULT; REMEDIES

Section 5.01. Events of Default; Remedies.

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due

amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure, bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules.

The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI

MISCELLANEOUS

Section 6.01. Ownership of Facilities. The System shall at all times be the sole and absolute property of Seller.

Section 6.02. Territorial Boundaries. In order to successfully plan and finance additions to each Purchaser's System, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territories of the parties to this Agreement in order to set out the areas each intends to serve. The Territorial Map is attached hereto as Exhibit D.

Section 6.03. Construction and Operation of Trans-Lines.

Nothing herein shall prohibit any party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to the appropriate proceedings being adopted by the party providing the consent and compliance with engineering and traffic safety standards. The owner of

a Trans-Line is responsible for all expenses related to the operation and maintenance thereof. In the event a Trans-Line is jointly owned, such owners shall determine the pro-rata costs that each will bear.

Section 6.04. Sites for Additional Tanks, Booster Pump Stations and Trans-Lines. In the event Seller determines that it is necessary to construct storage tanks, booster pump stations or Trans-Lines as improvements to the System and the desired locations for such tanks, booster pump stations or Trans-Lines are within the service area of a Purchaser, each Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.05. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by any Purchaser.

Section 6.06. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit C attached hereto.

Any party hereto may, by notice given to the other parties to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.07. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of the Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by all parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement are pledged to the

payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, the provisions of this Agreement, are a part of the contract between the Seller and its bondholders. Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.08. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a non-governmental party within the meaning set forth in §1.141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption any of the Bonds.

Section 6.09. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the

full extent permitted by law.

Section 6.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.11. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

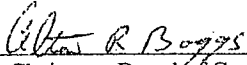
Section 6.12. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

Section 6.13. Effective Date. This Agreement shall become effective on the date of the acquisition of the System by Seller.

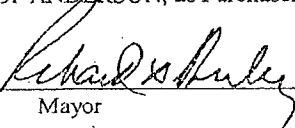
(End of Article VI)

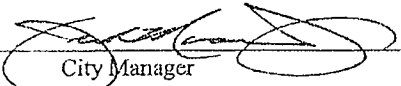
IN WITNESS WHEREOF, the parties hereto have caused this Water Sale and Purchase Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON COUNTY JOINT MUNICIPAL
WATER SYSTEM, SOUTH CAROLINA,
as Seller

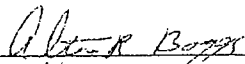
By: 
Chairman, Board of Commissioners

CITY OF ANDERSON, as Purchaser

By: 
Mayor

By: 
City Manager

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser

By: 
Its: Chairman

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser

By: 
Its: Chairman

05.23.13 000245

CITY OF CLEMSON, as Purchaser

By: AP

Mayor

By: Richard E. Potter

City Administrator

HAMMOND WATER DISTRICT, as Purchaser

By: Oliver A. Kukulinski

Its: Chairman

HOMELAND PARK WATER DISTRICT,
as Purchaser

By: B. Evans

Its: Chairman

TOWN OF PENDLETON, as Purchaser

By: Carole E. Burdette

Mayor

By: Dei Perry

Town Administrator

POWDERSVILLE WATER DISTRICT,
as Purchaser

By: Anthony R. Stecker

Its: Chairman

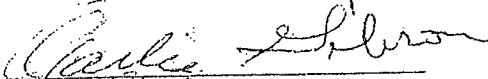
08.25.12 City 000045

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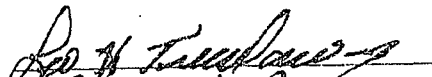
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05.23.13 000246

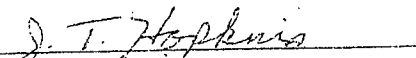
SANDY SPRINGS WATER DISTRICT,
as Purchaser

By: 
Its: Chairman

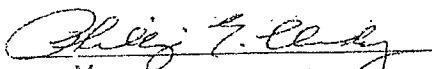
STARR-IVA WATER AND
SEWER DISTRICT, as Purchaser

By: 
Its: Chairman

WEST ANDERSON WATER DISTRICT,
as Purchaser

By: 
Its: Chairman

TOWN OF WILLIAMSTON, as Purchaser

By: 
Mayor

08.25.12 City 000046

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5000260

Exhibit AAll Participants – Allocated Capacities and Allocated Percentages

<u>PURCHASER</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	10.46	32.7%
Big Creek Water and Sewerage District	1.24	3.9
Broadway Water and Sewerage District	1.08	3.4
Clemson, City of	2.02	6.3
Clemson University (Joint Entity)	2.00	6.3
Hammond Water District	2.61	8.2
Homeland Park Water District	1.07	3.3
Pendleton, Town of	0.62	1.9
Powdersville Water District	0.58	1.8
Sandy Springs Water District	3.58	11.2
Starr-Iva Water and Sewer District	3.50	10.9
West Anderson Water District	2.24	7.0
Williamston, Town of	1.00	3.1

Pumped Purchasers – Allocated Pumping Percentages

<u>PURCHASER</u>	<u>ALLOCATED PUMPING PERCENTAGE</u>
Big Creek Water and Sewerage District	10.29%
Clemson, City of	16.84
Clemson University (Joint Entity)	17.72
Hammond Water District	1.69
Pendleton, Town of	5.14
Powdersville Water District	5.63
Sandy Springs Water District	31.39
Williamston, Town of	11.30

A-1

5000261

08.25.12 City 000047

Exhibit B**City of Anderson, South Carolina****A. Outstanding Debt Payable from Revenues of Purchaser's Water and/or Sewer System**

1. \$13,900,000 Sewer System Revenue Refunding Bonds, Series 1993, maturing July 1, 2008.
Amount outstanding as of March 1, 2002 is \$9,950,000.
2. \$6,910,000 Sewer System Revenue Refunding Bonds, Series 1998, maturing July 1, 2018.
Amount outstanding as of March 1, 2002 is \$6,230,000.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt (the "Senior Lien Debt") is secured by a pledge of net revenues of the City's sewer system.

C. Lien status of obligations under this Agreement

Effective upon the issuance of Purchaser's Series 2002 water and sewer system revenue bonds (the "2002 Bonds"), Purchaser will combine its water and sewer systems. Until such time as the Senior Lien Debt is paid in full, revenues of the water and sewer system will be disposed of as follows:

- First, to pay operating expenses allocable to sewer
- Second, to pay the Senior Lien Debt
- Third, to fund any debt service reserve funds for the Senior Lien Debt
- Fourth, to make any deposits to the sewer capital improvements fund
- Fifth, to pay operating expenses allocable to water (which shall include obligations under this Agreement)
- Sixth, to pay debt service on the 2002 Bonds and any parity lien bonds
- Thereafter, to make such other payments as are set out in the authorizing ordinances for the 2002 Bonds.

Once the Senior Lien Debt is paid in full, revenues of Purchaser's water and sewer system will be disposed of as follows:

- First, to pay operating expenses of the combined water and sewer system (including obligations under this Agreement)
- Second, to pay debt service on the 2002 Bonds and any parity lien bonds
- Thereafter, to make such other payments as are set out in the authorizing ordinances for the 2002 Bonds.

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

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The Big Creek Water and Sewerage District of Anderson County

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$1,400,000 Revenue Bond, Series 1974, dated October 24, 1974, maturing January 1, 2014.
Amount outstanding as of March 1, 2002 is \$716,497.37.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt (the "Senior Lien Debt") is secured by a statutory lien on Purchaser's water system and a pledge of the gross revenues of said system (pending the Senior Lien Debt holder's approval of change from a net revenue pledge to a gross revenue pledge).

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

The Broadway Water and Sewerage District of Anderson County**A. Outstanding Debt Payable from Revenues of Purchaser's Water System**

1. \$508,000 Waterworks System Revenue Bonds, Series 1974, maturing December 12, 2014. Amount outstanding as of March 1, 2002 is \$262,417.85.
2. \$315,000 Waterworks System Revenue Bonds (second lien), Series 1977, maturing in December, 2017. Amount outstanding as of March 1, 2002 is \$183,539.48.
3. \$438,000 Waterworks System Revenue Bonds (third lien), Series 1982, maturing January 22, 2022. Amount outstanding as of March 1, 2002 is \$314,877.07.
4. \$116,000 Waterworks System Revenue Bonds (fourth lien), Series 1990, dated December 18, 1990, maturing December 18, 2015. Amount outstanding as of March 1, 2002 is \$84,416.47.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt (the "Senior Lien Debt") is secured by a statutory lien on Purchaser's water system and a pledge of the gross revenues of said system (pending the Senior Lien Debt holders' approval of change from a net revenue pledge to a gross revenue pledge).

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

City of Clemson, South Carolina**A. Outstanding Debt Payable from Revenues of Purchaser's Water System**

1. \$450,000 Water and Sewer System Revenue Bonds, Series 1991, maturing June 21, 2006. Amount outstanding as of March 1, 2002 is \$130,000.
2. \$1,030,000 Water and Sewer System Taxable Revenue Bonds, Series 1993, maturing May 9, 2004. Amount outstanding as of March 1, 2002 is \$276,582.
3. \$2,100,000 Water and Sewer System Revenue Bonds, Series 1994, maturing November 9, 2014. Amount outstanding as of March 1, 2002 is \$1,338,750.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of the gross revenues of the Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of the Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Hammond Water District

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$500,000 Promissory Note dated March, 1973, maturing March, 2013. Amount outstanding as of March 1, 2002 is \$216,323.04.
2. \$700,000 Promissory Note dated October, 1981, maturing October, 2021. Amount outstanding as of March 1, 2002 is \$498,487.31.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of the gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Homeland Park Water District**A. Outstanding Debt Payable from Revenues of Purchaser's Water System**

1. \$500,000 Waterworks and Sewer System Revenue Bonds, Series 1975, maturing June, 2015. Amount outstanding as of March 1, 2002 is \$259,407.34.
2. \$515,000 Waterworks and Sewer System Improvement Revenue Bonds, Series 1980, maturing May, 2021. Amount outstanding as of March 1, 2002 is \$357,815.16.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of the gross revenues of Purchaser's water and sewer system (pending debt holder's approval of change from a net revenue pledge to a gross revenue pledge).

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Note: Purchaser is party to an Agreement for Wastewater Treatment and Service dated as of November 23, 1987, as amended, with the City of Anderson, South Carolina (the "City"). Pursuant to this Agreement, Purchaser pays to the City, as an operational expense of Purchaser's water and sewer system, a portion (9.74%) of annual debt service on certain debt of the City issued to provide in part additional capacity for Purchaser's benefit in certain sewer treatment plants of the City, and related amounts.

Town of Pendleton, South Carolina

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

None

B. Pledge Securing Outstanding Revenue Debt

N/A

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Powdersville Water District

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$1,202,900 Mortgage Loan dated June 24, 1970, maturing January 1, 2010. Amount outstanding as of March 1, 2002 is \$364,925.
2. \$625,000 Promissory Note dated August 14, 1981, maturing August 14, 2021. Amount outstanding as of March 1, 2002 is \$442,928.04.

B. Pledge Securing Outstanding Revenue Debt

Prior to effective date of this Agreement, the above-referenced debt is to be refinanced with obligations of like interest rates, principal amounts and maturities and secured by a pledge of gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Sandy Springs Water District**A. Outstanding Debt Payable from Revenues of Purchaser's Water System**

1. \$500,000 Promissory Note dated September 23, 1971, maturing January 1, 2011. Amount outstanding as of March 1, 2002 is \$167,583.49.
2. \$500,000 Promissory Note dated December 21, 1971, maturing January 1, 2011. Amount outstanding as of March 1, 2002 is \$169,735.01.
3. \$160,000 Promissory Note dated May 2, 1972, maturing January 1, 2012. Amount outstanding as of March 1, 2002, is \$60,681.47.
4. \$300,000 Promissory Note dated May 30, 1979, maturing May 28, 2019. Amount outstanding as of March 1, 2002 is \$178,069.46.
5. \$420,000 Promissory Note dated December 20, 1994, maturing December 20, 2019. Amount outstanding as of March 1, 2002 is \$347,808.40.

B. Pledge Securing Outstanding Revenue Debt

Prior to effective date of this Agreement, the above-referenced debt is to be refinanced with obligations of like interest rates, principal amounts and maturities and secured by a pledge of gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Starr-Iva Water and Sewer District**A. Outstanding Debt Payable from Revenues of Purchaser's Water System**

1. \$1,184,832.08 Promissory Note dated November 22, 1977, maturing January 1, 2012. Amount outstanding as of March 1, 2002 is \$475,409.65.
2. \$28,576.07 Promissory Note dated November 22, 1977, maturing January 1, 2014. Amount outstanding as of March 1, 2002 is \$13,493.73.
3. \$215,000 Promissory Note dated November 22, 1977, maturing November 22, 2017. Amount outstanding as of March 1, 2002 is \$120,136.25.
4. 325,000 Promissory Note dated March 6, 1990, maturing March 6, 2015. Amount outstanding as of March 1, 2002 is \$230,548.98.

B. Pledge Securing Outstanding Revenue Debt

Prior to effective date of this Agreement, the above-referenced debt is to be refinanced with obligations of like interest rates, principal amounts and maturities and secured by a pledge of gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

West Anderson Water District**A. Outstanding Debt Payable from Revenues of Purchaser's Water System**

1. \$328,300 Promissory Note dated May 24, 1973, and maturing May 24, 2013. Amount outstanding as of March 1, 2002 is \$145,417.48.
2. \$160,000 Promissory Note dated November 16, 1973, maturing November 16, 2013. Amount outstanding as of March 1, 2002 is \$72,898.10.
3. \$25,000 Promissory Note dated March 13, 1975, maturing May 13, 2015. Amount outstanding as of March 1, 2002 is \$13,105.56.
4. \$175,000 Promissory Note dated January 23, 1978, maturing January 23, 2018. Amount outstanding as of March 1, 2002 is \$104,231.45.
5. \$106,600 Promissory Note dated October 4, 1979, maturing October 4, 2019. Amount outstanding as of March 1, 2002 is \$71,231.56.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of the gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Town of Williamston, South Carolina

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$2,533,500 Waterworks and Sewer System Refunding Revenue Bond, Series 2002, dated March 14, 2002 maturing November 14, 2012. Amount outstanding as of March 15, 2002 is \$2,533,500.00.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Exhibit C

Addresses of All Parties for the Receipt of Notice

Anderson County Joint Municipal Water System

6910 Clemson Boulevard
Pendleton, South Carolina 29670
Attn: Manager

City of Anderson

401 South Main Street
Anderson, South Carolina 29624
Attn: City Manager

The Big Creek Water and Sewerage District of Anderson County

250 Mitchell Road
Belton, South Carolina 29627
Attn: Manager

The Broadway Water and Sewerage District of Anderson County

4926 Belton Highway
Anderson, South Carolina 29621
Attn: Manager

City of Clemson

Post Office Box 1566
Clemson, South Carolina 29633-1566
Attn: City Manager

Hammond Water District

250 Mitchell Road
Belton, South Carolina 29627
Attn: Manager

Homeland Park Water District

3231 South Main Street
Anderson, South Carolina 29624
Attn: Manager

Town of Pendleton

108 South Depot Street – Municipal Complex
Pendleton, South Carolina 29670
Attn: City Administrator

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Powdersville Water District

1719 Circle Road
Easley, South Carolina 29642
Attn: Manager

Sandy Springs Water District

6910 Clemson Boulevard
Pendleton, South Carolina 29670
Attn: Manager

Starr-Iva Water and Sewer District

8101 Highway 81 South
Starr, South Carolina 29684
Attn: Manager

West Anderson Water District

2767 White Hall Road
Anderson, South Carolina 29625
Attn: Manager

Town of Williamston

12 West Main Street
Williamston, South Carolina 29697
Attn: Mayor

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Exhibit D

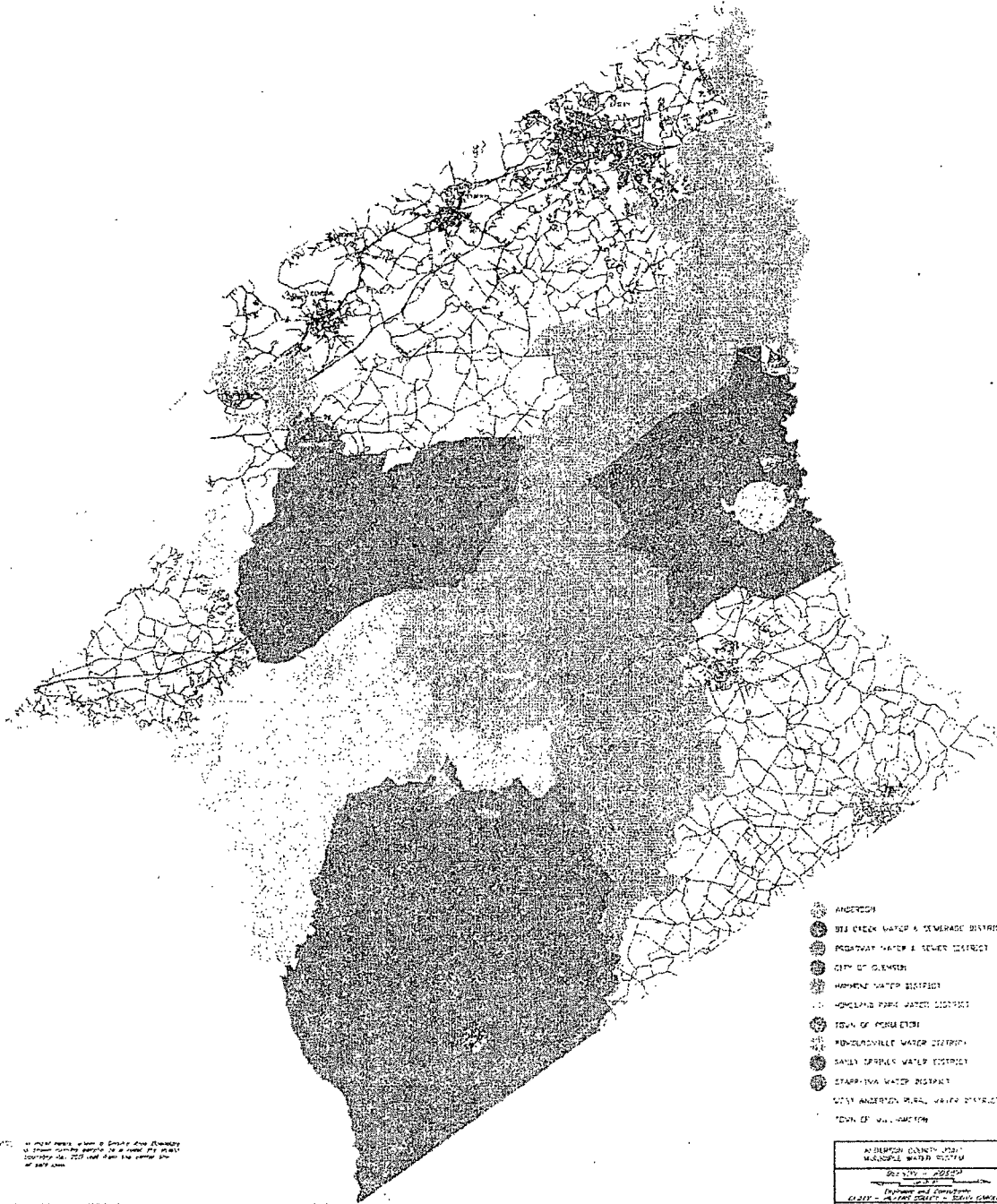
Map

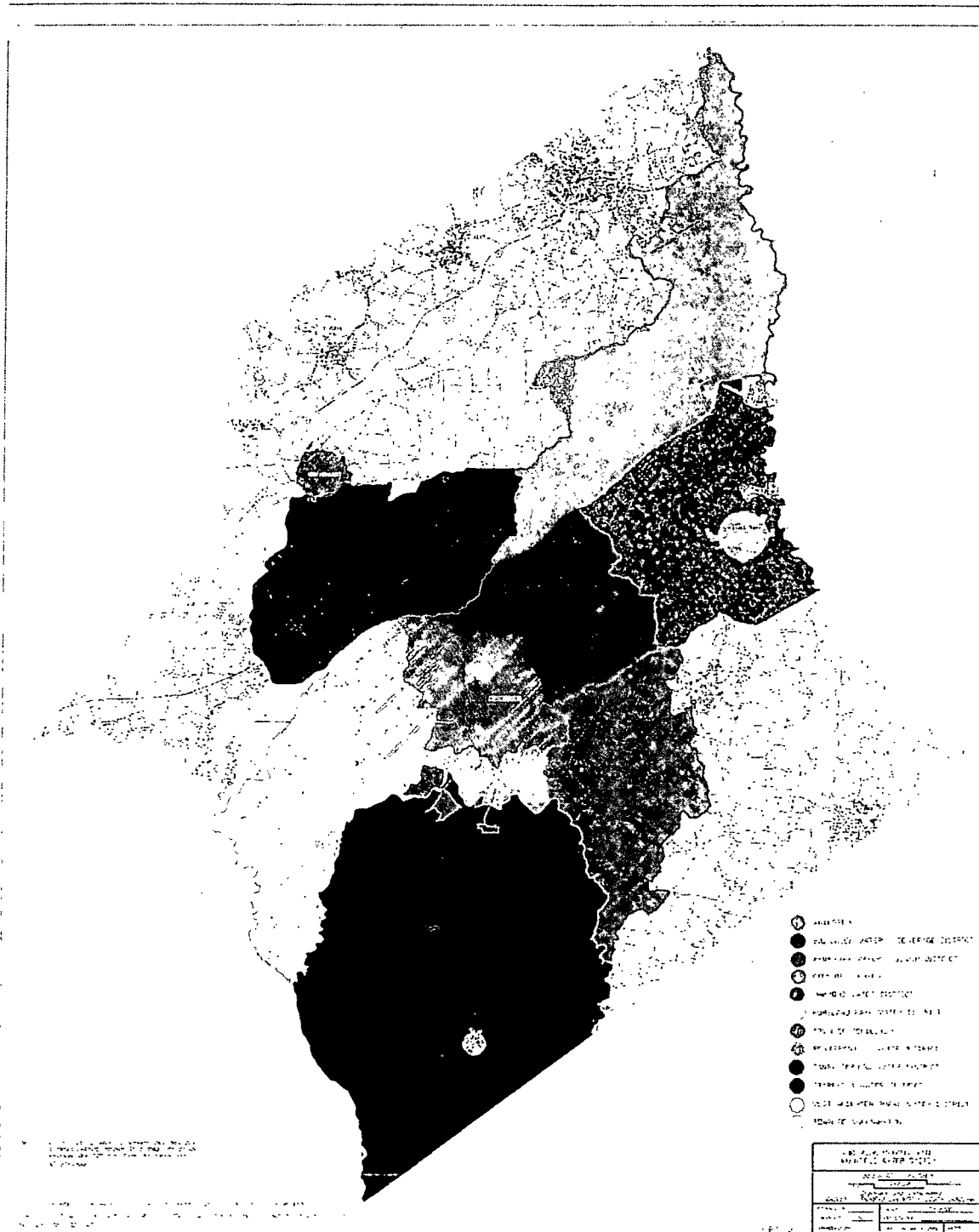
(Map is attached to the duplicate original delivered to the City of Anderson)

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ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement"), dated this 17th day of April, 2002, is by and between **DUKE ENERGY CORPORATION**, a North Carolina corporation (the "Seller"), **THE CITY OF ANDERSON**, an incorporated city in the State of South Carolina (the "Buyer"), and **MICHELIN NORTH AMERICA, INC.** (the "Customer").

BACKGROUND STATEMENT

The Seller has agreed to sell to the Buyer certain assets of the Seller's water system located in Anderson County, South Carolina (the "Retail Assets") pursuant to the terms of that certain Asset Sale Agreement, dated February 20, 2002, between them (the "Sale Agreement"). In connection therewith, the Seller has agreed to assign to the Buyer, and the Buyer has agreed to assume, effective as of the closing date of the sale of the Retail Assets to the Buyer (the "Closing Date"), the Water Service Agreement between the Seller and the Customer, dated July 3, 2000, a copy of which is attached hereto as Exhibit A (as amended and in effect on the date hereof, the "Assigned Contract").

This Agreement sets forth the terms and conditions of the assignment of the Assigned Contract to the Buyer.

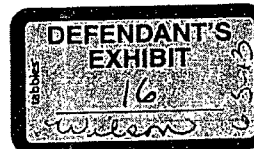
Capitalized terms not otherwise defined herein shall have the meanings given to them in the Sale Agreement.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual agreements and representations set forth below, the parties hereto agree as follows:

1. Assignment. Pursuant to the terms of the Sale Agreement, the Seller hereby assigns to the Buyer, effective as of the Closing Date, all of the Seller's right, title and interest in and to the Assigned Contract, except for any rights arising as a result of a breach of the Assigned Contract prior to the Closing Date.
2. Assumption by the Buyer. The Buyer hereby assumes, effective as of the Closing Date, all liabilities and obligations of the Seller from and after the Closing Date under the Assigned Contract.
3. Consent to Assignment. The Customer hereby consents to the foregoing assignment by the Seller of the Assigned Contract and to the foregoing assumption by the Buyer of the Assigned Contract.

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4. Liability of Seller. The Seller shall remain liable to the Customer for any breach of the Assigned Contract by the Seller based on any actions or omissions occurring prior to the Closing Date. The Customer shall look solely to the Buyer for the performance of all obligations under the Assigned Contract from and after the Closing Date, and the Customer hereby releases the Seller from any and all liabilities and obligations under the Assigned Contract based on any action or omissions occurring on or after the Closing Date.

5. Effectiveness of Consent. The assignment and assumption of the Assigned Contract contemplated hereby shall be effective only upon the consummation of the sale of the Retail Assets contemplated by the Sale Agreement. If the Sale Agreement is terminated for any reason, this Agreement shall be null and void and shall have no further force or effect.

6. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one instrument.

[The remainder of this page is left blank intentionally.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement in multiple counterparts upon the dates indicated below by their duly authorized representatives.

SELLER:

DUKE ENERGY CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

Stephen G. DeMay
Stephen G. DeMay
Vice President
April 17, 2002

BUYER:

THE CITY OF ANDERSON

By: _____

Name: _____

Title: _____

Date: _____

John E. Moore
John E. Moore
City Manager
April 17, 2002

CUSTOMER:

MICHELIN NORTH AMERICA, INC.

By: _____

Name: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, the undersigned have executed this Agreement in multiple counterparts upon the dates indicated below by their duly authorized representatives.

SELLER:**DUKE ENERGY CORPORATION**

By: _____
Name: _____
Title: _____
Date: _____

BUYER:**THE CITY OF ANDERSON**

By: _____
Name: _____
Title: _____
Date: _____

CUSTOMER:**MICHELIN NORTH AMERICA, INC.**

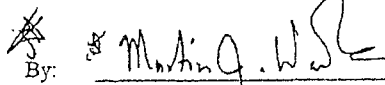
By: 
Name: Martin J. Wardle
Title: Vice President, Purchasing
Date: APRIL 12, 2007

EXHIBIT A

Assigned Contract

See attached.

WATER SERVICE AGREEMENT

This Agreement is made and entered into as of the 3rd day of July, 2000, by and between DUKE WATER SYSTEMS, a Division of Duke Energy Corporation, a corporation organized and existing under the laws of the State of South Carolina (hereinafter designated as "DWS") and MICHELIN NORTH AMERICA, INC., One Parkway South, Greenville, South Carolina (hereinafter designated as "MNA").

WITNESSETH

That in consideration of the covenants and agreements hereinafter contained and other valuable considerations, the parties hereto, for themselves, their successors and assigns, mutually agree as follows:

1. Terms. DWS will deliver water to MNA, which MNA will use and pay for, subject to the terms and conditions of this Agreement. The original term of this Agreement shall be Ten Years from the delivery date or October 1, 2000, whichever is earlier, and shall be renewable at the expiration of the original term. Either of the parties hereto may terminate this Agreement at any time during the term hereof by giving at least three (3) years written notice of such termination to the other party. Nonetheless, either party may terminate this Agreement for cause or for material breach upon sixty (60) days' written notice to the other party. The sale, delivery and use of water hereunder and all service to be rendered or performed by DWS in connection therewith, shall be subject to and in accordance with the terms and conditions of DWS's Service Regulations on file with the South Carolina Public Service Commission (hereinafter referred to as the "Commission"). The Service Regulations are incorporated by reference and made a part hereof as though fully set forth herein. Said Service Regulations are subject to change, revision, alteration, or substitution, either in whole or in part, upon order of the Commission or any other regulatory authority having jurisdiction, and any such change, revision, alteration or substitution shall immediately be made a part hereof as though fully written herein, and shall nullify any prior provision in conflict herewith. DWS reserves the right and MNA hereby grants DWS the right after ninety (90) days notice to suspend the furnishing of any water hereunder or to terminate this Agreement for breach of any of DWS's Water Service Regulations; provided however, that, where an emergency exists, or where a dangerous condition is found to exist on MNA's premises, the water may be shut off without such notice. Upon the termination or expiration of this Agreement, it is expressly agreed and understood that DWS shall have the right, upon reasonable notice to MNA, to enter upon the premises of MNA at such place or places in which any meter or other property of DWS is located and to remove the same.

2. Services. (a) The water to be delivered hereunder shall be supplied from DWS's waterworks system in Anderson County, South Carolina, and shall be delivered, except as hereinafter provided for, twenty-four (24) hours a day, three hundred sixty-five (365) days per year. Said water shall be provided to MNA at a

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delivery point suitable to serve MNA's property located in the State of South Carolina, County of Anderson described as follows:

At a point on MNA's property just west of a county road (Michelin Boulevard), approximately 2,200 feet north of its intersection with U. S. Rte. 29 South.

- (b) The meter(s) used to measure and record the amount of water delivered, will be provided by DWS and at the cost of MNA. Such meter(s) shall be located at the above described delivery point(s) and shall remain the property of DWS. DWS shall test such meter(s) at times and intervals specified in its Service Regulations to establish their accuracy.
- (c) Satisfactory pits or housing shall be provided by MNA for said meter(s) and associated piping and accessories. MNA agrees to furnish land and/or rights of way for said meter pit(s), apparatus and appliances, at no charge to DWS, and, if for any reason it becomes necessary to relocate said meter pit, apparatus and appliances, all costs of relocation will be paid by MNA.
- (d) Appropriate backflow prevention equipment is required on the MNA side of the meter in its service line. MNA shall be responsible for all costs associated with installing the proper backflow preventers at the metering station, including any pit(s), required valves and accessories. All responsibility for ongoing maintenance and operation of the backflow preventers and their respective pit(s) is MNA's. MNA agrees to test the backflow preventers after installation and annually thereafter. The testing and any required maintenance shall be performed by a technician certified by the South Carolina Department of Health and Environmental Control (hereinafter referred to as SCDHEC).
- (e) The total installation of the meter and backflow preventers, and pit(s) to house them shall be in accordance with all applicable regulations promulgated by SCDHEC.

3. Delivery.

- (a) DWS will begin to deliver water hereunder or be able to do so, at such date on or before October 1, 2000, as may be mutually agreed upon by the parties hereto, and MNA will be ready to receive and use water on said date.
- (b) Sale, delivery and use of water hereunder shall be subject to and in accordance with the terms and conditions of DWS's Water Rate Schedule No. 7, now on file with the Commission and hereby incorporated by reference and made a part hereof as though fully set forth herein. Said Rate Schedule is subject to change, revision, alteration or substitution, either in whole or in part upon approval of the Commission or any other regulatory authority having jurisdiction, and any such change, revision, alteration or substitution shall immediately be made a part hereof as though fully written herein and shall nullify any prior provision of this Agreement in conflict herewith.

(c) MNA agrees to purchase its water needs from DWS. MNA agrees to pay all reasonable costs associated with the installation of new facilities required to bring water service from DWS's existing water system to a point or points on MNA's property, said point or points being delineated by MNA. All new facilities installed between DWS's existing water system and the metered delivery point to MNA, including the meter(s) and excluding the pit or housing, shall be titled to DWS by MNA.

(d) The maximum amount of water allowed for MNA's use through this metered delivery will be 2 CCF (1,500 gallons) per minute.

4. Force Majeure. "Force Majeure" means any cause beyond the reasonable control of, and without the fault or negligence of, the Party claiming Force Majeure. It shall include, without limitation, sabotage, strikes or other labor difficulties, riots or civil disturbances, acts of God, hurricanes, earthquakes, explosions, lightning, landslides, fires, floods, droughts, low water, or similarly cataclysmic occurrences, accidents, acts of Government or binding orders of any court or agency, inability to obtain necessary equipment or material, equipment breakdowns, modification or maintenance work on DWS's water system, or any other cause beyond the Party's control, then and in such event the Party claiming Force Majeure shall not be liable during such period of prevention. The Party claiming Force Majeure shall use all reasonable efforts within its control to remove and overcome such cause or causes.

5. Suspension of Service During Emergency. DWS reserves the right and MNA hereby grants to DWS the right to suspend the furnishing of any water hereunder during any system-wide emergency. Such emergency will be declared by DWS to MNA. The system-wide emergency may be declared in DWS' sole discretion and DWS may assign, in its sole discretion, priorities for water usage during such a declared emergency.

6. Payment. Bills rendered to MNA under this Agreement are due and payable at the office of DWS on the issuance date of the bill. Bills are past due and delinquent on the fifteenth day after the date of the bill. In addition, all bills not paid by the twenty-fifth day after the billing date shall be subject to a late charge per month on the unpaid amount at the rate specified in Water Rate Schedule No. 7. If the bill has not been paid after the twenty-fifth day from the billing date, then DWS may, at its option and in addition to any other available rights or remedies, suspend the delivery of water hereunder until MNA has made payment of all money due. This option may be exercised by DWS as often as any such default shall occur, and delay or omission on the part of DWS to exercise such option shall not be deemed a waiver of its right to exercise such option whenever such default on the part of MNA shall occur.

7. Set Offs and Counterclaims. No claims or demands which MNA may

have against DWS shall be set off or counterclaimed against the payment of any sum of money due hereunder, and all such sums shall be paid as herein provided, regardless of any such claim or demand.

8. Condition. The obligations of DWS hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. DWS shall not be liable to MNA for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

9. Warranty. (a) DWS represents that it owns the infrastructure to deliver water service and warrants that it will provide water service to MNA's property located at a point in the southwestern quadrant of the intersection of U. S. Route 29 South and Lee Dobbins Road (S-4-65), Tract 8, upon MNA's request and according to MNA's criteria stipulated in this Agreement. DWS warrants to use all reasonable means at its disposal to ensure the uninterrupted supply of water to MNA.

(b) MNA AGREES THAT IF THE WATER DELIVERED HEREUNDER IS USED FOR FIRE PROTECTION PURPOSES, SUCH USE SHALL BE AT MNA'S RISK AND MNA FURTHER AGREES THAT DWS SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE BY FIRE EVEN IF SUCH LOSS OR DAMAGE IS OCCASIONED FROM THE FAILURE OF DWS TO SUPPLY WATER HEREUNDER.

(c) LIMITED WARRANTY: DWS WARRANTS THAT THE SERVICES PROVIDED HEREUNDER, WITHIN THE LIMITS PRESCRIBED BY THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION, SHALL BE PROVIDED WITH PROFESSIONAL THOROUGHNESS AND COMPETENCE AND IN ACCORDANCE WITH GENERALLY AND CURRENTLY ACCEPTED GOOD PRINCIPLES AND PRACTICES. DWS SHALL, AT NO COST TO MNA, PROMPTLY CORRECT ANY SERVICES WHICH HAVE FAILED SAID WARRANTY. NO OTHER WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, IS INCLUDED IN THIS AGREEMENT.

10. Limitation of Liabilities. DWS's TOTAL CUMULATIVE LIABILITY TO MNA FOR CLAIMS OF ANY KIND WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER ANY WARRANTY OR OTHERWISE, FOR ANY LOSS OR DAMAGE ARISING OUT OF, OR RELATED TO THIS AGREEMENT, SHALL IN NO CASE EXCEED THE COMPENSATION PAID TO DWS UNDER THIS AGREEMENT FOR THE HIGHEST TWELVE CONSECUTIVE MONTHS' BILLS. IN NO EVENT SHALL DWS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES AS A RESULT OF BREACH OF CONTRACT, WARRANTY, GUARANTEE, INDEMNITY, OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY.

11. Survival of Termination. THE PROVISIONS OF SECTIONS 9 AND 10 SHALL APPLY NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT AND SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND SHALL REMAIN IN FULL FORCE AND EFFECT.

12. Assignment. This Agreement and its terms, conditions, obligations and liabilities shall be binding upon the parties hereto and their successors and assigns; provided, however, MNA may not assign this Agreement or otherwise transfer its rights or obligations hereunder without DWS's prior written consent. Duke Energy Corporation is currently entertaining bids for its water systems. In the event that Duke Energy Corporation sells its water systems, MNA hereby agrees to the assignment of this Agreement to DWS's successor.

13. Choice of Law and Jurisdiction. This Agreement shall be construed and interpreted in accordance with the laws of the State of South Carolina, excluding its choice of law rules. Any dispute arising out of or related to this Agreement shall be litigated in a court of the State of South Carolina. Each party expressly submits to the jurisdiction of the Courts of the State of South Carolina.

14. Integration. This Agreement is a complete contract and contains the entire agreement between the parties relating to the subject matter hereof. All prior communications, understandings, or representations, whether written or oral, are hereby superseded. No modification, amendment or other change in this Agreement shall be effective for any purpose unless specifically set forth in writing signed by the party to be bound thereby.

15. Headings. Section headings are for the convenience of reference only and shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

MICHELIN NORTH AMERICA, INC.

By: Martin G. Wardle
Martin Wardle
Vice President of Purchasing

DUKE WATER SYSTEMS

By: Michael Snow
Michael Snow
Manager, Duke Water Systems

RESTATED AND AMENDED
WATER SALE AND PURCHASE AGREEMENT

among the

ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM

and

The Municipalities of Anderson, Clemson, Pendleton and Williamston

and the Special Purpose Districts of

The Big Creek Water and Sewerage District of Anderson County,
The Broadway Water and Sewerage District of Anderson County,
Hammond Water District, Homeland Park Water District,
Powdersville Water District, Sandy Springs Water District,
Starr-Iva Water and Sewer District, and West Anderson Water District

~~As of October 12, 2004.~~



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This WATER SALE AND PURCHASE AGREEMENT made as of this 21st day of March, 2002, by and among the ANDERSON COUNTY JOINT MUNICIPAL WATER SYSTEM, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

BACKGROUND AND FINDINGS

Seller was organized under the provisions of Section 6-25-5 *et seq.*, Code of Laws of South Carolina (1976), as amended, as a body politic and corporate for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of its respective members. In furtherance of such purposes, Seller has determined to acquire the Duke Energy Water Filtration Plant situated on Lake Hartwell, certain transmission mains which transport treated water from this Plant to various areas in Anderson County and a small area in Pickens County and related facilities (the "Duke Facilities"). The Duke Facilities, together with certain water transmission facilities that the City of Anderson is purchasing from Duke Energy Corporation ("Duke Energy"), have been the potable water source for and have provided water, on a wholesale basis, to each of the municipalities of Clemson, Pendleton, and Williamston, South Carolina and to the public service districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District,

Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District. In addition, Duke Energy has also, on a retail basis, provided potable water within and without the corporate limits of the City of Anderson, to Clemson University and to certain other commercial, industrial and residential customers.

Seller has negotiated an agreement with Duke Energy whereby it will acquire the Duke Facilities and the City of Anderson has negotiated an agreement with Duke Energy whereby it will acquire certain transmission mains, storage tanks and related facilities. In order to insure its ability to serve certain of the Purchasers with potable water in accordance with the requirements of this Agreement, Seller entered into an Operating Agreement on February 25, 2002 (the "Operating Agreement") with the City of Anderson for the provision of the operation of certain transmission mains and related facilities which are being acquired by the City of Anderson. In order to serve Clemson University, Seller will enter into a separate agreement with Clemson University which will purchase water on a wholesale basis from Seller. Simultaneously with the transfer of the Duke Facilities to the Seller, the City of Anderson is acquiring the afore-mentioned transmission facilities from Duke Energy and the special purpose districts of The Broadway Water and Sewerage District of Anderson County and West Anderson Water District are acquiring certain facilities from Duke Energy.

It is presently intended by the parties hereto that the City of Anderson will serve (1) two industries; BASF and Owens-Corning, located within the boundaries of Starr-Iva Water and Sewer District; and (2) the industrial facilities of Michelin, which are located within the boundaries of West Anderson Water District. Both Starr-Iva Water and Sewer District and West Anderson Water District consent to the City of Anderson's providing such service to these industries. However, such

consent is strictly limited to the provision of service to these named industrial customers and no further provision of service by the City of Anderson shall be made to any customer located within the boundaries of Starr-Iva Water and Sewer District or within West Anderson Water District without the written consent of such Purchaser.

The purpose of this acquisition is to assure that the provision of water to the service area will be under local control; that the water rates will be reasonable to local users; that an adequate water supply will be available for future growth in Anderson County; and that the associated local distribution systems may have an opportunity to make recommendations for future policies and operations. Seller, in order to acquire the Duke Facilities from Duke Energy, must obtain financing for the costs of the acquisition, related advances, and costs of issuance by the issuance of long term revenue bonds, secured by the revenues of Seller's water system and by water purchase agreements from its primary users.

Each of the Purchasers has determined that it is in the best interests of its customers and residents located within its respective service area to participate in the acquisition by Seller of the Duke Facilities by becoming a member of Seller and to purchase certain rights to the use of the Duke Facilities. By joining together, economies of scale can be achieved and each Purchaser will be able to acquire a safe and secure source of potable water. Each Purchaser, recognizing the benefits to be gained by such joint action, has determined, pursuant to the provisions of this agreement, to purchase the right to receive a specified allocated capacity defined in terms of millions of gallons of potable water per day and to pay for such amount of potable water by assuming the responsibility for a corresponding amount of the debt service on bonds issued by Seller to defray the acquisition of the Duke Facilities. As a means of providing sufficient security to the holders of such bonds all

members have agreed to share on a pro rata basis certain of the obligations of each Purchaser under the provisions of this agreement on a "step-up" basis. Such arrangement will insure that the financing of the acquisition of the Duke Facilities will be achieved at the lowest possible cost and that the Duke Facilities once acquired will remain under the control and operation of the Purchasers executing this agreement.

Hence, this agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

"Additional Capital Charge" means one twelfth (1/12) (or, with respect to the period prior to the first principal payment date on an issue of Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year or any period prior to the first Bond Year multiplied by the ratio of treated water delivered to a Pumped Purchaser

for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year.

"Agreement" means this Water Sale and Purchase Agreement between Seller and the Purchasers, as the same may from time to time be modified or amended.

"Allocated Capacity" means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The initial Allocated Capacities of the Purchasers are set forth in Exhibit "A" hereof. Allocated Capacity is expressed in million gallons per day ("MGD") and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24) hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on the ratio of their initial Allocated Capacities.

"Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing a Purchaser's Allocated Capacity by the total of all Allocated Capacities as set forth in Exhibit "A."

"Annual Principal and Interest Requirement" means the total of the principal of (including any mandatory sinking fund payments) and interest on Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund pursuant to Section 3.13 hereof.

"Arbitration Panel" means the panel of three (3) arbitrators appointed and selected pursuant to Section 5.02 hereof.

"Board" means the Board of Commissioners of Seller, the governing body of Seller.

"Bonds" means (A) those bonds initially issued by Seller to acquire the System, (B) all Improvement Bonds and (C) any bonds issued to refund any such Bonds.

"Bond Year" means the period of time beginning the sixteenth day of July in each year and ending the fifteenth day of July in the next succeeding year.

"Booster Pump Stations" means all facilities owned by the System and directly related to pumping water to all Pumped Purchasers including pumps, motors, electrical equipment, buildings, land and storage facilities whose sole purpose is to support the pump station. It does not include transmission lines and offsite storage facilities.

"Capital Charge" of a Purchaser means one twelfth (1/12) (or, with respect to the period prior to the first principal payment date on an issue of Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on all Bonds in the then current Bond Year or any period prior to the first Bond Year multiplied by a Purchaser's Allocated Percentage.

"Consulting Engineers" shall mean any independent firm of consulting engineers which has skill and experience in utility financing and rate design, and the design and operation of water treatment and transmission facilities.

"Facilities" means the assets purchased by the Seller from Duke Energy and which include the Plant, related transmission pipes and elevated tanks, machinery and equipment and any

replacement or substitute facilities, as well as any improvements made to the Facilities from time to time and all additional related facilities used to produce or supply water for wholesale delivery; provided, however, such term shall not include the Booster Pump Stations or any facilities owned or operated by a Purchaser as a part of its distribution system.

"Facilities Renewal and Replacement Fund" means the Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.01 of this Agreement.

"Fiscal Year" means July 1 through June 30 of each year.

"Force Majeure" means acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the Government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to deliver water hereunder, or a Purchaser to receive water hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement.

"Operational Pumping Charge" means, for each month, one-twelfth (1/12) of the average of the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the two previous Fiscal Years multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding month to all water delivered to all Pumped Purchasers for

the preceding month. It is provided, however, that for the first twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be fixed at the rate of 6.2¢ per 1,000 gallons of water delivered to each Pumped Purchaser; and for the second twelve (12) months of delivery of water to a Pumped Purchaser, the Operational Pumping Charge shall be computed by averaging (1) the actual sum received by the Seller for the Operational Pumping Charge during the first twelve (12) month period and (2) the Pumping Operation and Maintenance Expenses as set forth in the audited financial statements of Seller's System for the first twelve (12) months of delivery of water to the Participants.

"Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Facilities and deliver Potable Water to the distribution systems of the Participants and to maintain the Facilities so that they will have a reasonable useful life. Operation and Maintenance Expenses include, but are not limited to, chemicals, energy, labor, repairs, supplies, pumps located at the Plant site required for transmission of water to the Participants and other direct expenses necessary for the wise and prudent functioning of the Facilities. Operation and Maintenance Expenses do not include expenses relating to the operation of the Booster Pump Stations.

"Participants" means the Purchasers and Clemson University. The term "Participant" includes Pumped Purchasers and those Purchasers who receive water from Seller's System without any requirement of pumping.

"Plant" means Seller's existing 32 MGD water treatment plant and any other expansions, improvements or alterations to such plant.

"Potable Water" means water which meets South Carolina Department of Health and Environmental Control drinking water standards.

"Pumped Purchaser" means a Participant designated as such on Exhibit A attached hereto.

"Pumping Depreciation Charge" means, for any month, an amount equal to the Pumping Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Pumped Purchaser during the previous month. Amounts collected as the Pumping Depreciation Charge shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

"Pumping Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.06 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System to the Pumped Purchasers for that Fiscal Year.

"Pumping Facilities Renewal and Replacement Fund" means the Pumping Facilities Renewal and Replacement Fund established by Seller pursuant to Section 4.04 of this Agreement.

"Pumping Operation and Maintenance Expenses" means, for each Fiscal Year, all reasonable recurring direct expenses required to operate the Booster Pump Stations and to maintain the Booster Pump Stations so that they will have a reasonable useful life. Operation and Maintenance Pumping Expenses include, but are not limited to, energy, labor, repairs and supplies, and other direct expenses necessary for the wise and prudent functioning of the Booster Pump Stations.

"Purchaser" or "Purchasers" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond

Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District and their successors and assigns.

"Purchaser's System" means the water distribution system of a Purchaser or in the instance of a Purchaser that owns a combined water and sewer system such definition means such combined water and sewer system.

"Seller" means the Anderson County Joint Municipal Water System, South Carolina, and its successors and assigns.

"Seller's Bond Resolution" means a resolution entitled "A Resolution Providing for the Issuance and Sale of Waterworks System Revenue Bonds of Anderson County Joint Municipal Water System, South Carolina and other Matters Relating Thereto," adopted April, 2002.

"Seller's System" or "System" means the waterworks system of the Seller, including all of the Facilities and the Booster Pump Stations and any improvements or expansions which may be made to the Facilities and the Booster Pump Stations from time to time.

"System Depreciation Charge" means, for any month, an amount equal to the System Depreciation Rate times the amount of Potable Water, expressed in thousands of gallons, provided by Seller to a Purchaser during the previous month. Amounts collected as the System Depreciation Charge shall be deposited into the Facilities Renewal and Replacement Fund.

"System Depreciation Rate" means the per-thousand gallon rate derived by dividing the monthly deposit determined pursuant to the provisions of Section 4.03 hereof by one-twelfth (1/12) of Seller's annual budget projection of the volume, expressed in thousands of gallons, of all water to be sold from the Seller's System for that Fiscal Year.

"Trans-Line" means a line, or a part of the capacity of a shared line that transverses the territory of another to deliver or distribute a water supply beyond that territory.

(End of Article I)

ARTICLE II

GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01. Representations of Seller. Seller hereby represents that it is a duly organized and existing Joint Municipal Water System of the State of South Carolina and that it will acquire, own and operate the System; that Seller has all necessary power and authority to own and operate the aforesaid System and to perform its obligations under this Agreement; and that Seller has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.02. Water Rights. Seller represents that it has sufficient rights to withdraw water from Lake Hartwell, as evidenced by the Contract between the United States of America and Duke Power Company, a Corporation for Water Storage Space in Hartwell Reservoir dated June 2, 1967 as the same was assigned to the Seller pursuant to the provisions of the Transfer and Assignment of Contract No. DACW21-67-C-0011 Between the United States of America and Duke Power Company, a Corporation for Water Storage Space in Hartwell Reservoir dated April 5, 2002.

Section 2.03. Cooperation in Issuance of Obligations. Seller covenants and agrees that it will cooperate with the Purchasers in the issuance of any bonds or other obligations proposed to be issued by a Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall comply with all reasonable requests of a Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;

(C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;

(D) Make available certified copies of official proceedings and records, if applicable;

(E) Provide reasonable certifications to be used in a transcript of closing documents;

(F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as a Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from a Purchaser of reimbursement of any costs thereby incurred by Seller.

Section 2.04. Representations of Each Purchaser. Each Purchaser hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina owning and operating such Purchaser's System which is, or will be at the time of the provision of water pursuant to this Agreement, capable of receiving water as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; and that it has taken all necessary action to authorize the execution and delivery of this Agreement.

Section 2.05. Cooperation in Issuance of Obligations. Each Purchaser covenants and agrees

that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Seller's System. In connection therewith, each Purchaser shall comply with all reasonable requests of Seller and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and
- (G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any costs thereby incurred by such Purchaser.

Section 2.06. Term of Agreement. This Agreement shall be effective on the date of Seller's acquisition of the System and shall extend for an initial period commencing on such date and

extending until July 15, 2032 and thereafter, absent receipt of notice from any Purchaser of its intent not to renew, shall be automatically extended for five year periods. In the event a Purchaser intends not to renew at the end of a term, such Purchaser shall notify the Seller of its intent, in writing, not less than six months prior to the end of such term. Upon its effective date, this Agreement shall supersede any and all prior agreements for the purchase of water among the parties hereunto, including any agreements assigned by Duke Energy to Seller, to which assignment each Purchaser hereby consents.

(End of Article II)

ARTICLE III

SALE AND PURCHASE OF WATER

Section 3.01. Sale of Water.

(A) On and after the effective date of this Agreement and continuing for the term of this Agreement, Seller shall make available to each Purchaser an amount of Potable Water equal to such Purchaser's Allocated Capacity. Subject to the provisions of Section 3.05 hereof, Potable Water shall be delivered to each Purchaser at a metering site or sites provided by Seller, such site or sites to be agreed upon between Seller and the appropriate Purchaser. Such Potable Water shall be provided at the metering site or sites at an appropriate operating pressure and at a rate of flow and meeting the minimum water quality standards set forth in the State Primary Drinking Water Regulations (R. 61 - 58). Seller bears no responsibility or liability for the contamination or deterioration of water quality or pressure occurring beyond the points of delivery to each Purchaser. In the event of reduction in flow or pressure due to circumstances beyond the control of Seller, Seller shall exert its best efforts to make available to each Purchaser such Purchaser's Allocated Percentage of the available Potable

Water until normal service is restored. Seller reserves the right and each Purchaser grants the right to Seller to suspend the furnishing of any water during any System wide emergency. Such emergency will be declared in writing by Seller to each Purchaser.

(B) In the event the Seller determines that a Purchaser is using water in excess of its Allocated Capacity, then such Purchaser shall be notified that it must acquire additional Allocated Capacity under the provisions of either Section 3.10 or Section 3.11 and each Purchaser agrees to acquire such additional Allocated Capacity. During any period of time that the average daily consumption of water by a Purchaser in any month exceeds its Allocated Capacity, such Purchaser shall be subject to a penalty determined and thereafter imposed by the Seller.

(C) Each Purchaser agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Purchaser's risk and each Purchaser further agrees that Seller shall not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of Seller to supply water hereunder. Seller warrants to use all reasonable means at its disposal to insure the uninterrupted supply of water to each Purchaser.

(D) The obligations of Seller hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchises, and permits for the delivery of such water. Seller shall not be liable to any Purchaser for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, franchises, or permits.

Section 3.02. Payment for Water: Absolute Obligation. Beginning in May, 2002, and in each succeeding month during the term of this Agreement, each Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

(A) the Capital Charge of such Purchaser, plus

(B) one-twelfth (1/12) of the annual budget of Operation and Maintenance Expenses for the Facilities multiplied by the ratio of treated water delivered to Purchaser for the preceding month to all water delivered from Seller's System for the preceding month, i.e.,

Monthly O&M Payment = $1/12 \text{ O\&M Budget} \times \frac{\text{Purchaser's Treated Flow Last Month}}{\text{Total Treated Flow Last Month}}$; plus

(C) the System Depreciation Charge, if any.

Beginning in May, 2002 and in each succeeding month during the term of this Agreement, each Pumped Purchaser shall pay to Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to:

(D) the Additional Capital Charge, plus

(E) the Operational Pumping Charge, plus

(F) the Pumping Depreciation Charge, if any.

The monthly payments made during a Fiscal Year pursuant to paragraphs (A), (B), (D) and (E) of this Section 3.02 and due after the receipt by Seller of its audited financial statements for the prior Fiscal Year shall be adjusted as follows: (w) each Purchaser shall be entitled to a credit against its obligation to pay the Capital Charge in such month in an amount equal to each Purchaser's Allocated Percentage of the earnings realized in the immediately preceding Fiscal Year on investments made in the Facilities Renewal and Replacement Fund, or in any debt service reserve fund or debt service fund to the extent any such fund is allocable to Bonds, and such interest earnings have been credited to the appropriate debt service fund; (x) each Pumped Purchaser shall be entitled to a credit against its obligation to pay the Additional Capital Charge in such month in an amount equal to the ratio of treated water delivered to a Pumped Purchaser for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year multiplied by the earnings

realized in the immediately preceding Fiscal Year on investments made in the Pumped Facilities Renewal and Replacement Fund to the extent such interest earnings have been credited to the appropriate debt service fund; (y) the next monthly payment by each Purchaser pursuant to paragraph (B) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year; and (z) the next monthly payment by each Pumped Purchaser pursuant to paragraph (E) of this Section 3.02 shall be adjusted to correct for actual expenditures during the prior Fiscal Year.

The obligation of each Purchaser to make the payments of the Capital Charge and the obligation of each Pumped Purchaser to pay also the Additional Capital Charge provided by this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any component of the System, any acts or circumstances which may constitute failure of consideration, destruction of or damage to any component of the System, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Each Purchaser obligates and binds itself to punctually make the payments of the Capital Charge and each Pumped Purchaser obligates and binds itself to punctually make the payments of the Additional Capital Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each Purchaser to the Seller under this Agreement shall be limited to the revenues derived by each Purchaser from the operation of each Purchaser's System.

In the event any payment by a Purchaser to the Seller is insufficient to satisfy the Purchaser's entire then-current obligations under this Agreement, such payments shall be applied in the following order of priority: (1) Capital Charge, (2) Additional Capital Charge, (3) the Purchaser's share of the

Operation and Maintenance Expenses, (4) the Operational Pumping Charge, (5) the System Depreciation Charge, if any, and (6) the Pumping Depreciation Charge, if any.

Section 3.03. Priority of Pledge; Additional Obligations.

(A) Each Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each Purchaser's System as hereinafter described is hereby granted to Seller.

(B) Each Purchaser hereby represents that all outstanding debt which is payable from the revenues of such Purchaser's System is set forth on Exhibit B attached hereto. Each Purchaser agrees that the obligations owed to the Seller hereunder constitute obligations of the Purchaser payable as operating expenses of such Purchaser's System.

(C) Purchaser shall not issue bonds, notes or other evidences of indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of such Purchaser's System prior to or superior to such Purchaser's obligation to pay the operating expenses of its respective system (including payments to be made under this Agreement).

(D) Purchaser shall not execute or adopt any instrument securing bonds, notes or other indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of such Purchaser's System unless such instrument provides that any payments to be made under this Agreement shall be payable as operating expenses of such Purchaser's System. This paragraph (D) shall not apply to any instrument securing bonds, notes or other evidences of indebtedness outstanding on the date of this Agreement.

(E) Nothing contained in this Section 3.03 or any other provision of this Agreement shall be deemed to prevent any Purchaser from entering into contracts with the Seller with respect to the supply of Potable Water which contract payments are payable from the revenues derived from the ownership and operation of such Purchaser's System on a parity with the payments required to be made to Seller pursuant to this Agreement.

Section 3.04: Loss of Allocated Capacity. In the event any Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 5.01(A)(4) hereof, Seller shall provide notice to all non-defaulting Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each Purchaser does hereby agree to pay all amounts then due from the defaulting Purchaser multiplied by the quotient obtained by dividing such Purchaser's Allocated Percentage by the Allocated Percentages of all non-defaulting Purchasers in accordance with the instructions included in said notice from Seller. Seller shall then transfer to all non-defaulting Purchasers their pro rata portions (determined in the foregoing manner) of the defaulting Purchaser's Allocated Capacity. Any portion of the Allocated Capacity of a defaulting Purchaser transferred pursuant to this Section 3.04 to non-defaulting Purchasers shall become a part of and shall be added to the Allocated Capacities of the transferee Purchasers by an amendment to Exhibit A hereof, and the transferee Purchasers shall thereafter be obligated to make all payments under this Agreement in accordance with the amended Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.04. The defaulting Purchaser shall remain liable for all payments due under this Agreement except that the obligations of any defaulting Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of

Seller incurred by Seller pursuant to this Section 3.04, are received by Seller for that portion of the defaulting Purchaser's Allocated Capacity which has been transferred as provided in this Section 3.04. A defaulting Purchaser may acquire its Allocated Capacity by paying to the non-defaulting Purchasers all amounts paid by all non-defaulting Purchasers with respect to the defaulting Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting Purchasers to the date of repayment by the defaulting Purchaser; and in such event, the defaulting Purchaser's Allocated Capacity shall be restored to it; provided, however, that no non-defaulting Purchaser shall be required to re-sell such Allocated Capacity to a defaulting Purchaser at any time more than two (2) years following the transfer of Allocated Capacity from such defaulting Purchaser to such non-defaulting Purchaser.

Section 3.05. Measurement of Water Flows. In order to monitor compliance with this Agreement, Seller shall construct, if necessary, but at a Purchaser's expense, a metering station at the Plant and at each delivery site established pursuant to Section 3.01 hereof, with equipment checked to industry standards for accuracy at such times as the Seller, in its discretion, deems necessary or upon the request of any Purchaser when abnormal readings are suspected. In the event of meter malfunction within the first year of operations, flow readings will be based on historical billing data provided by each Purchaser for the same calendar period during the prior year plus three percent (3%). Seller, with the agreement of each Purchaser, shall establish a schedule for the reading of meters for the measurement of flows pursuant to this Section 3.05. In the event of meter malfunction at any time following the first full year of operations, flow readings shall be estimated based on total output of the Plant for the period in question and the ratios calculated pursuant to Section 3.02 (B)

hereof for the same month in the preceding calendar year. Any party to this Agreement may be present in order to observe any meter reading or any check as to the accuracy of any meter. A Purchaser may request a reading or check of a meter or meters at a time or times other than those regularly scheduled as provided in this Section 3.05. In the event that it shall be determined pursuant to any interim reading made at a Purchaser's request that the meter or meters checked is/are functioning and reading properly, the cost of such interim reading or readings shall be paid by such Purchaser; otherwise, the cost of such interim reading shall be considered an Operation and Maintenance Expense.

It is recognized by and among the parties hereto that flow to the City of Anderson's retail system is not currently measured by wholesale master meters. Therefore, the flow to the City of Anderson shall be measured as follows: for the first twelve months of delivery of water by Seller to the City of Anderson, flow will be calculated by adding the sum of all retail, municipal and other meter readings that are part of the City of Anderson's system and said sum shall be multiplied by 1.04. The City of Anderson shall furnish these readings to the Seller on a monthly basis no later than the fifth day of the month. The Seller shall have the right to audit such computations at any time Seller believes an error has been made. During the first twelve months of delivery of water by Seller to the City of Anderson, the Seller and the City of Anderson shall engage an independent third party to study water loss in the City of Anderson's system and to develop a method of billing that is fair and equitable to both the City of Anderson and the Seller. The cost of the study will be paid equally by the City of Anderson and the Seller. The study shall include both the methodology of calculating the flow and the water loss percentages used in such methodologies. The recommendations included in the independent study results shall be binding on both parties. In the event that the

implementation of such recommendations causes retail water rates charged by the City of Anderson to rise by more than four percent, the recommendations shall be phased in over a three-year period. At such time as wholesale master meters are installed to accurately measure flow to the City of Anderson either in whole or part, alternate billing methods shall no longer be used. The installation of master meters to measure flow to the City of Anderson shall be by mutual agreement with the cost to be paid equally by the City of Anderson and the Seller.

Section 3.06. Operation and Maintenance of Facilities. Seller agrees to operate and maintain the System in a good and proper manner in accordance with all requirements of State and Federal regulatory agencies and consistent with generally recognized good practice using industry standards.

Section 3.07. Books and Records. Seller shall maintain separate accounting records for Seller's System which records shall be maintained in accordance with generally accepted accounting principles. All books and records of Seller pertaining to Seller's System shall be available to Purchaser for inspection at all reasonable times.

Section 3.08. Budgets.

(A) Prior to the commencement of each Fiscal Year, Seller shall establish an annual budget for such Fiscal Year for Operation and Maintenance Expenses and for Pumping Operation and Maintenance Expenses and shall provide a copy of such budget to each Participant upon its completion. Such budget may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of Operation and Maintenance Expenses

and of Pumping Operation and Maintenance Expenses, certified by a firm of certified public accountants or an auditing firm.

(B) Prior to the commencement of each Fiscal Year, Seller shall establish annual budgets for each Fiscal Year for expenditures to be made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund and shall provide a copy of these budgets to the Participants upon completion. Such budgets may be revised by Seller upon mid-year review. Any revised budget shall immediately be delivered to each Participant. Seller shall provide quarterly financial statements to all Participants comparing year-to-date expenditures to budgeted amounts. In addition, Seller shall conduct and furnish an annual audit for each Fiscal Year of all expenditures made from the Facilities Renewal and Replacement Fund and from the Pumping Facilities Renewal and Replacement Fund certified by a firm of certified public accounts or an auditing firm.

Section 3.09. Capital Costs Not Related to Increases of Purchasers' Allocated Capacities.

(A) The cost of future capital improvements for the purpose of satisfying regulatory agency requirements relating to such things as water quality or sludge handling or enhancing reliability, without increasing the actual capacity of the System, shall be shared by the parties hereto as follows: (i) if the improvements are to the Facilities, the cost will be shared on the basis of Allocated Percentages and (ii) if the improvements are to the Booster Pump Stations, the cost will be shared by the Pumped Purchasers on the basis of the ratio of treated water delivered to such Pumped Purchaser for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year.

(B) The cost of future capital improvements to extend the useful life of the System, or such improvements as are necessary to maintain all Purchasers' Allocated Capacities for Potable Water or such other improvements as Seller determines necessary to the proper functioning of the

System shall also be shared as follows: (i) if the improvements are to the Facilities, the cost will be shared on the basis of Allocated Percentages and (ii) if the improvements are to the Booster Pump Stations, the cost will be shared by the Pumped Purchasers on the basis of the ratio of treated water delivered to such Pumped Purchaser for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year..

(C) The System as it exists on the date hereof and any improvements, extensions and additions necessary to be constructed as capital improvements described in paragraphs (A) and (B) of this Section 3.09 constitute a "project" as such term is used in Section 6-25-110 of the Code of Laws of South Carolina, 1976, as amended ("Section 6-25-110"), and each Purchaser hereby approves the undertaking of such project by the Seller and consents to the issuance of Improvement Bonds of the System for each as part of the "project" and hereby represents that its governing body has specifically approved this provision pursuant to said Section 6-25-110.

(D) In the event the capital costs contemplated by (A) and (B) above would result in a Purchaser's share of such cost exceeding the sum of \$100,000, Seller agrees to finance the capital costs by the issuance of Improvement Bonds.

(E) Purchaser agrees that, to the extent that its share of capital costs incurred as contemplated in subsections (A) and (B) shall not be financed with the proceeds of Improvement Bonds, it shall, upon receipt of a statement from Seller setting forth in reasonable detail the calculation of such costs, pay to Seller its share of such costs.

(F) Seller and each Purchaser acknowledges that pursuant to agreements entered into by and between the Seller and Duke Energy and by and between the City of Anderson and Duke Energy, the ownership of many of the transmission mains through which the Seller will transport water to Purchasers will be vested in the City of Anderson. Due to such circumstance, Seller (1) has entered into an Operating Agreement dated February 25, 2002, with the City of Anderson in order to insure its capability of providing water to each Purchaser in accordance with the provisions of this Agreement and (2) has determined immediately to commence the design and construction of additional transmission mains to "loop" the present retail service area of the City of Anderson. The Seller does hereby specifically agree, not later than September 15, 2002, to commence an engineering study which will provide for the design, location and estimated costs of these additional lines. As provided in paragraph 7 of the Operating Agreement, the City of Anderson has consented to the initial construction of such additional lines provided the costs thereof do not exceed \$5,000,000 (such amount to be increased on each anniversary of the Operating Agreement by 10% compounded each anniversary) and provided construction commences within five years of the date of the Operating Agreement. Each Purchaser does hereby consent to the issuance of Improvement Bonds by the Seller to the extent and under the conditions set forth above and agrees such additional lines constitute a "project" as such term is used in Section 6-25-110 and agrees to the undertaking of such "project" by the Seller and hereby represents that its governing body has specifically approved this provision pursuant to said Section 6-25-110. Seller does hereby consent and agree to issue Improvement Bonds of the System for the purposes stated and to the extent stated by the language of this paragraph (F).

Section 3.10. Expansion of the System to Provide Additional Capacity.

(A) It is the intention of the parties hereto that additional capacity as shall be needed by the respective parties shall be made available from time to time with the costs of providing such additional capacity being assumed on a pro-rata basis by those to whom such capacity is allocated. In the event any party to this Agreement shall determine that it requires additional capacity, it shall so notify all Participants in writing setting forth its estimated required additional capacity and the time at which it estimates such additional capacity will be required. Within forty-five (45) days after receipt of such notice, any party wishing to participate in such expansion in order to obtain additional capacity for itself shall so notify the other parties hereto setting forth in such notice the amount of additional capacity required and the approximate time the additional capacity will be required.

(B) Seller agrees to undertake the design and construction of the improvements to the System necessary to provide the additional capacity requested by this Section 3.10 in a timely manner such that such capacity will be available on or before the date set forth in such notice, provided that:

(i) the requested availability date shall be not less than thirty (30) months following the date of the notice;

(ii) Seller shall not be required to add capacity to the System in increments of less than two million (2,000,000) gallons; provided, however nothing in this paragraph (ii) prohibits the Seller and any Participant from agreeing to any particular increment of additional capacity to be so constructed;

(iii) provision satisfactory to Seller shall have been made for the payment of the costs of such expansion (including design, engineering and financing costs) through (a) capital contributions by the party or parties to receive the additional

capacity; or (b) through a subsequent agreement between the parties hereto providing for the Seller to issue obligations, the debt service on which will be paid by the appropriate Purchaser as well as all other costs incurred in connection with the issuance of the obligations, including the funding of any required debt service reserve fund; and

(iv) a supply of water is available and necessary permits can be obtained.

(C) The parties hereto agree to modify and amend this Agreement to the extent necessary to provide for alteration of the Allocated Capacities and Allocated Percentages required as a result of any increase in the capacity of the System or the installation of any additional improvements to the System in which the parties hereto participate on a basis other than their original Allocated Percentages.

Section 3.11. Parties' Rights to Sell or Otherwise Dispose of Water and Allocated Capacities.

(A) The parties hereto agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any water received by such party from the System, and that a party selling any portion of the water delivered to such party shall be solely entitled to the proceeds of such sale.

(B) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) Any party to this Agreement may sell or lease all or any portion of its Allocated Capacity to a person who is not a party to this Agreement, but only upon the following conditions:

(i) the Allocated Capacity shall first be offered to any other party to this Agreement on the same terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if any of the parties to this Agreement elects not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased;

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve any party of primary responsibility for the performance of its obligations under this Agreement; and

(v) no such sale, lease or other disposition of Allocated Capacity shall be made to, or for the benefit of, a nongovernmental entity unless the party disposing of such Allocated Capacity shall have provided to Seller an opinion of counsel experienced in matters of tax-exempt municipal bonds to the effect that such disposition will not adversely affect the exemption from federal income taxation of interest on any Bonds or other obligations issued in connection with the financing of any portion of Seller's System.

Section 3.12. Rate Covenant. Each Purchaser covenants that at all times during the term of this Agreement it will impose rates and charges for services provided by such Purchaser's System sufficient at all times to enable such Purchaser to meet its obligations hereunder.

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into a "Debt Service Reserve Fund" (as defined in Seller's Bond Resolution) established for a series of Bonds as a result of an investment loss therein or as a result of

replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such "Debt Service Reserve Fund," an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such "Debt Service Reserve Fund." In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from such Purchaser's Allocated Percentage of the associated "Debt Service Reserve Fund." Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into such "Debt Service Reserve Fund," to the extent of any such withdrawal, to the credit of such Purchaser's Allocated Percentage thereof. During the time of any such withdrawal, Purchaser's Allocated Percentage of such "Debt Service Reserve Fund" shall be correspondingly reduced. The interest included in any such payment of arrearages shall become the sole property of Seller. Each Purchaser's Allocated Percentages of any "Debt Service Reserve Fund" shall be used to make the final payments of each Purchaser's Capital Charge and Additional Capital Charge, if any, with respect to the respective issue of Bonds.

(End of Article III)

ARTICLE IV

RENEWAL AND REPLACEMENT FUNDS

Section 4.01. Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Facilities Renewal and Replacement Fund for the Facilities. The Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for

depreciation for the Facilities, and for contingencies, improvements, betterments and extension of the Facilities. Money in the Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Facilities; (2) for improvements, betterments and extensions to the Facilities, other than for those things which are reasonably necessary to maintain the Facilities in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.02. Deposits to the Facilities Renewal and Replacement Fund. All amounts paid by the Purchasers in accordance with the provisions of Section 3.02(A) hereof and not used to fund a debt service fund established for an issue of Bonds, a debt service reserve fund established for an issue of Bonds, or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Facilities Renewal and Replacement Fund.

Section 4.03. Determination of Surplus or Deficit Within the Facilities Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Purchaser based on its Allocated Percentage. In the event a deficit

has occurred in the Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Facilities Renewal and Replacement Fund in accordance with Section 4.02 hereof and shall notify each Purchaser that a monthly System Depreciation Charge will be due. Such notice shall state the period during which a System Depreciation Charge will be due which period shall be not less than nine months.

Section 4.04. Pumping Facilities Renewal and Replacement Fund; Use. Seller shall establish as part of Seller's System a Pumping Facilities Renewal and Replacement Fund for the Booster Pump Stations. The Pumping Facilities Renewal and Replacement Fund is intended to build up and maintain a reasonable reserve for depreciation for the Booster Pump Stations, and for contingencies, improvements, betterments and extension of the Booster Pump Stations. Money in the Pumping Facilities Renewal and Replacement Fund shall be used solely (1) for the purpose of restoring depreciated or obsolete items of the Booster Pump Stations; (2) for improvements, betterments and extensions to the Booster Pump Stations, other than for those things which are reasonably necessary to maintain the Booster Pump Stations in good repair and working order; (3) to defray the cost of unforeseen contingencies; (4) to prevent defaults of bonds issued under Seller's Bond Resolution; and (5) for optional redemption of bonds issued under Seller's Bond Resolution.

Section 4.05. Deposits to the Pumping Facilities Renewal and Replacement Fund. All amounts paid by the Pumped Purchasers in accordance with the provisions of Section 3.02(D) hereof and not used to fund a debt service fund established for an issue of Bonds, a debt service reserve fund established for an issue of Bonds, or not otherwise used to pay the principal and interest on Bonds, shall be deposited into the Pumping Facilities Renewal and Replacement Fund.

Section 4.06. Determination of Surplus or Deficit Within the Pumping Facilities

Renewal and Replacement Fund. Prior to the commencement of each Fiscal Year, Seller shall establish a balance which shall be retained within the Pumping Facilities Renewal and Replacement Fund during said Fiscal Year. Said amount shall be determined after receiving advice from the Consulting Engineers and shall, in any event, be a sum not less than the budgeted amount established for the Pumping Facilities Renewal and Replacement Fund pursuant to the provisions of Section 3.08(B) hereof.

At the close of each Fiscal Year, based upon the financial statements provided to the Seller by a firm of certified public accounts, the Seller shall determine whether and to what extent a surplus or a deficit exists in the Pumping Facilities Renewal and Replacement Fund. In the event a surplus exists, such sum shall be paid to each Pumped Purchaser based on the ratio of treated water delivered to such Pumped Purchaser for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year. In the event a deficit has occurred in the Pumping Facilities Renewal and Replacement Fund, Seller shall determine a monthly deposit which must be made to the Pumping Facilities Renewal and Replacement Fund, taking into account the moneys which will otherwise be deposited into the Pumping Facilities Renewal and Replacement Fund in accordance with Section 4.05 hereof and shall notify each Pumped Purchaser that a Pumping Depreciation Charge will be due. Such notice shall state the period during which a Pumping Depreciation Charge will be due which period shall be not less than nine months.

(End of Article IV)

ARTICLE V

EVENTS OF DEFAULT; REMEDIES

Section 5.01. Events of Default; Remedies.

(A) (1) In the event that a Purchaser fails to make any payment required by this Agreement, after ten (10) days written notice to such Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such Purchaser of such failure, bring action against such Purchaser for the specific performance by such Purchaser of such other covenant or agreement or, in the event that such failure impairs such Purchaser's ability to make payments required by this Agreement, for the appointment of a receiver to administer and operate such Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 (A) of this Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice to such Purchaser proceed under the provisions of Section 3.04 hereof and each

Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such Purchaser's Allocated Capacity among the non-defaulting Purchasers as set forth in Section 3.04.

(5) No Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a Purchaser by reason hereof, such Purchaser shall have no right to offset its obligations to make payments under the provisions of this Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 5.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing

to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(End of Article V)

ARTICLE VI

MISCELLANEOUS

Section 6.01. Ownership of Facilities. The System shall at all times be the sole and absolute property of Seller.

Section 6.02. Territorial Boundaries. In order to successfully plan and finance additions to each Purchaser's System, and to avoid future disputes, the parties have agreed upon a Territorial Map of the territories of the parties to this Agreement in order to set out the areas each intends to serve. The Territorial Map is attached hereto as Exhibit D.

Section 6.03. Construction and Operation of Trans-Lines.

Nothing herein shall prohibit any party from constructing new Trans-Lines, or maintaining existing Trans-Lines, through another's territory to serve customers in its own territory. Consent to use the streets and public ways for rights of way purposes for wholesale lines and for Trans-Lines is expressly given one to the other, subject to the appropriate proceedings being adopted by the party providing the consent and compliance with engineering and traffic safety standards. The owner of a Trans-Line is responsible for all expenses related to the operation and maintenance thereof. In the event a Trans-Line is jointly owned, such owners shall determine the pro-rata costs that each will bear.

Section 6.04. Sites for Additional Tanks, Booster Pump Stations and Trans-Lines. In the event Seller determines that it is necessary to construct storage tanks, booster pump stations or Trans-Lines as improvements to the System and the desired locations for such tanks, booster pump stations or Trans-Lines are within the service area of a Purchaser, each Purchaser agrees to cooperate with Seller in locating suitable sites and exercising its power of eminent domain if such is necessary in order to acquire the sites. All costs related to the construction of such improvements shall be paid by Seller.

Section 6.05. Taxes and Franchise Fees. No tax, license or franchise fees or other charge shall be imposed upon the Seller's System by any Purchaser.

Section 6.06. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit C attached hereto.

Any party hereto may, by notice given to the other parties to this Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 6.07. Beneficiaries; Assignment. All covenants and agreements contained in this Agreement shall inure to the benefit of the Seller and each Purchaser and their respective successors and assigns. It is specifically acknowledged by all parties that Seller's (1) rights to receive all the payments under this Agreement and (2) the payments required by this Agreement are pledged to the payment of all Bonds issued by Seller and that in connection with the issuance of such Bonds, the provisions of this Agreement, are a part of the contract between the Seller and its bondholders. Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 6.08. Compliance with Requirements of Internal Revenue Code.

(A) Each Purchaser represents that it is not a party to nor will it enter into any contracts with any entity for the use or management of any property provided with the proceeds of any Bonds that will cause any portion of the Bond financed facilities to be used in a private trade or business of a non-governmental party within the meaning set forth in §1.141-3 of the Regulations or Revenue Procedure 97-13, 1997-1 C.B. 680, or any successor regulations or pronouncements of the United States Treasury Department.

(B) Each Purchaser agrees that it will not sell, lease or otherwise dispose of any property financed with the proceeds of any Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax

exemption any of the Bonds.

Section 6.09. Severability. In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

Section 6.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.11. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 6.12. Amendments. This Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

Section 6.13. Effective Date. This Agreement shall become effective on the date of the acquisition of the System by Seller.

(End of Article VI)

Per MCP on 8/17/06 - file
with ARJWS 10754.12

FIRST AMENDMENT
TO THE
RESTATED AND AMENDED

WATER SALE AND PURCHASE AGREEMENT

among the

ANDERSON REGIONAL JOINT WATER SYSTEM

and

The Municipalities of Anderson, Clemson, Pendleton and Williamston

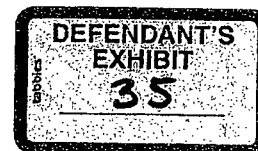
and the Special Purpose Districts of

The Big Creek Water and Sewerage District of Anderson County,
The Broadway Water and Sewerage District of Anderson County,
Hammond Water District, Homeland Park Water District,
Powdersville Water District, Sandy Springs Water District,
Starr-Iya Water and Sewer District, and West Anderson Water District

Dated as of December 6, 2005

Doc. No. 677629v4 (Columbia)

Anderson Regional Joint Water System
(taken from 08.25.12 City 000191)



5000363

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EXHIBIT E -	All Participants - Allocated Capacities and Allocated Percentages Following Adoption of First Supplement to the Agreement	
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This FIRST AMENDMENT TO THE RESTATED AND AMENDED WATER SALE AND PURCHASE AGREEMENT (hereinafter referred to as the "First Amendment to the Agreement") made as of this ____ day of December, 2005, by and among the Anderson Regional Joint Water System, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Homeland Park Water District, Powdersville Water District, Sandy Springs Water District, Starr-Iva Water and Sewer District, and West Anderson Water District (hereinafter referred to as the "Purchasers").

FINDINGS OF FACTS

Seller and the Purchasers entered into the Water Sale and Purchase Agreement on March 21, 2002 for the purpose of providing (a) an arrangement for the operation, maintenance and expansion of Seller's waterworks system; and (b) a framework for all related activities required in connection with the Seller's provision of potable water to each of the Purchasers through the waterworks system of the Seller (the "System"). The Water Sale and Purchase Agreement was subsequently restated and amended on October 12, 2004 (as restated and amended, the "Agreement").

At the present time, the municipalities of Anderson, Clemson, Pendleton and Williamston, and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Powdersville Water District, Sandy Springs Water District and West Anderson Water District (the "First Supplement Purchasers") have determined that in order to meet the needs of their present and future customers for potable water, each must obtain additional capacity in the System. As required under the provisions of Section 3.10 of the Agreement, such First Supplement Purchasers have

notified all of the other parties to the Agreement setting forth the amount of such requested additional capacity and the approximate time that such additional capacity is needed.

Upon reviewing the requests of all parties to the Agreement, Seller has determined to expand the capacity of the Plant (as defined in the Agreement) by adding capacity in the amount of 13 million gallons per day ("MGD") thereby bringing the total capacity of the Plant to 45 MGD (the "Project").

~~In order to defray the costs of the expansion to the Plant, Seller has determined to issue a~~
revenue bond in the form of a State Revolving Fund Loan from the South Carolina Water Quality Revolving Fund Authority (the "Series 2005 Bond") in the principal amount of approximately \$5,388,000.

Pursuant to the provisions of Section 3.10 of the Agreement, a subsequent agreement among the Seller and the parties acquiring additional capacity (the "First Supplement to the Agreement") must be entered into in order, inter alia, to set out the responsibilities of the First Supplement Purchasers to pay the debt service on the Series 2005 Bond, to provide for the funding of the debt service reserve fund established in connection therewith and to set forth the First Additional Allocated Capacity (as defined herein and in the First Supplement to the Agreement) obtained by such First Supplement Purchasers. So that such First Additional Allocated Capacity will be taken into account with respect to the responsibilities and obligations of each party to the Agreement, an amendment to the Agreement must be adopted simultaneously with the adoption of the First Supplement to the Agreement. This amendment (the "First Amendment to the Agreement") will increase the Allocated Capacity of each First Supplement Purchaser as a result of the construction of the Project. This First Amendment to the Agreement shall also modify the Allocated Percentage of each Purchaser so that the obligation of each Purchaser under the Agreement to pay capital costs

reflects the benefits received from the assets paid by such capital costs. This First Amendment to the Agreement also shall add to and amend such other terms and provisions of the Agreement as the parties deem necessary.

Hence, this First Amendment to the Agreement among these parties (1) has been found to be in the best interest of the public, the parties and the consumers to be served; and (2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and the Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. General. All defined terms used in this First Amendment to the Agreement if not provided a specific definition in Section 1.02 or in Section 1.03 hereof shall have the meanings given to such terms in the Agreement.

Section 1.02. Additional Definitions. Section 1.01 of the Agreement shall be amended to add the following words and terms:

"First Additional Allocated Capacity" means the additional Allocated Capacity each First Supplement Purchaser receives under the terms of the First Supplement to the Agreement.

"First Supplement to the Agreement" is the first supplement to the Agreement (subsequent to its being restated and amended on October 12, 2004) entered into by the Seller and the First Supplement Purchasers. The First Supplement to the Agreement is effective on the same date as this First Amendment to the Agreement. The purpose of the First Supplement to the Agreement is to

provide for the payment of the Series 2005 Bond and the funding of the Reserve Requirement (as defined in Seller's Bond Resolution) as well as to set forth the First Additional Allocated Capacity of each First Supplement Purchaser.

"First Supplement Capital Charge" of a First Supplement Purchaser means one-twelfth (1/12) (or if calculated for a period less than a Bond Year, such other appropriate percentage) of one hundred thirty percent (130%) multiplied by the annual principal and interest requirement on the Series 2005 Bond in the then current Bond Year multiplied by the percentage assigned to such First Supplement Purchaser in Section 3.02 of the First Supplement to the Agreement.

"First Supplement Purchaser" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Powdersville Water District, Sandy Springs Water District, and West Anderson Water District and their successors and assigns.

"Initial Allocated Capacity" means the initial portion of the capacity of the System made available to each Purchaser or reserved to Seller, all as set forth on Exhibit "A."

"Series 2005 Bond" means the waterworks system revenue bond of Seller issued to construct and equip the Project.

Section 1.03. Amended Definitions. The following terms set forth in Section 1.01 of the Agreement shall be amended to have the following definitions:

"Additional Capital Charge" means (1) one-twelfth (1/12) (or, with respect to the first Bond Year of the Initial Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by six and eighty-seven hundredths percent (6.87%) of the Annual Principal and

Interest Requirement on the Initial Bonds in each Bond Year multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year; plus (2) one-twelfth (1/12) (or, with respect to the first Bond Year of any Improvement Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by the Annual Principal and Interest Requirement in each Bond Year applicable to the principal amount of such Improvement Bonds used to improve the Booster Pump Stations as provided in Section 3.09 hereof multiplied by the ratio of treated water delivered to a Pumped Purchaser for the preceding Fiscal Year to all water delivered to all Pumped Purchasers for the preceding Fiscal Year.

"Allocated Capacity" means that portion of the capacity of the System to be made available to each Purchaser or reserved to Seller. The Initial Allocated Capacity of each Purchaser and of the Seller is set forth in Exhibit "A" hereto. Allocated Capacity for each of Homeland Park Water District and for Starr-Iva Water and Sewer District means each one's Initial Allocated Capacity. Allocated Capacity for each First Supplement Purchaser means each one's Initial Allocated Capacity plus its First Additional Allocated Capacity. The Allocated Capacity of each Purchaser following the adoption of the First Supplement to the Agreement is set forth on Exhibit "E". Allocated Capacity is expressed in million gallons per day ("MGD") and is the maximum capacity a Purchaser is allowed to receive from the Seller in any twenty-four (24) hour period. In the event that the Seller does not have the means available to measure flow of a Purchaser on a daily basis, a peaking factor based on available engineering data will be applied to average consumption over the billing cycle to determine the capacity used by the Purchaser on a daily basis. Any increase in the capacity of the System

resulting other than from expansion of the System as contemplated by Section 3.10 hereof shall be allocated to the parties hereto based on their Allocated Percentages:

"Annual Principal and Interest Requirement" means with respect to an issue of Bonds, the total of the principal of (including any mandatory sinking fund payments) and interest on an issue of Bonds coming due in any Bond Year, excluding interest to be paid from the proceeds of such issue of Bonds in such Bond Year, and the principal and interest to be paid in the final Bond Year to the extent the same are paid from moneys in the Debt Service Reserve Fund (as defined in Seller's Bond Resolution) pursuant to Section 3.13 hereof,

"Bond Year" means, whether or not principal is actually paid during a Bond Year, the period of time beginning the day after the principal payment date in each year and ending the date of such principal payment date in the next succeeding year; provided, however, for the first Bond Year such period of time begins on the date of the Bonds and ends on the day of the first principal payment date of the Bonds. If principal is paid more frequently than annually, such calculations are made based on the first principal payment date following the date of the Bonds.

"Bonds" means (A) the Initial Bonds and (B) all Improvement Bonds.

"Capital Charge" of a Purchaser means (1) one-twelfth (1/12) (or, with respect to the first Bond Year of the Initial Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied by ninety-three and thirteen hundredths percent (93.13%) of the Annual Principal and Interest Requirement on the Initial Bonds in each Bond Year multiplied by a Purchaser's Initial Allocated Percentage; plus (2) one-twelfth (1/12) (or, with respect to the first Bond Year of any Improvement Bonds, such other appropriate monthly fraction, taking into account the respective due dates of the initial principal and interest payments) of one hundred thirty percent (130%) multiplied

by the Annual Principal and Interest Requirement in each Bond Year applicable to the principal amount of such Improvement Bonds used to improve the Facilities as provided in Section 3.09 hereof multiplied by a Purchaser's then Allocated Percentage.

"Improvement Bonds" means all waterworks system revenue bonds of Seller issued to acquire, construct or equip improvements or expansions contemplated by Section 3.09 of this Agreement and any bonds issued to refund any Improvement Bonds.

"Initial Allocated Percentage" means with respect to a Purchaser, the percentage derived by dividing such Purchaser's Initial Allocated Capacity by 32 MGD as set forth on Exhibit "A."

"Initial Bonds" means the initially issued \$58,615,000 Waterworks System Revenue Bonds, Series 2002, by Seller to acquire the System and any bonds issued to refund the Initial Bonds.

"Seller" means the Anderson Regional Joint Water System, South Carolina, and its successors and assigns.

(END OF ARTICLE I)

ARTICLE II

TERM

Section 2.01. Term of First Amendment to the Agreement. This First Amendment to the Agreement shall be effective on the date of the adoption of the First Supplement to the Agreement and shall terminate upon the termination of the Agreement.

(END OF ARTICLE II)

ARTICLE III
AMENDMENTS TO CERTAIN PROVISIONS

Section 3.01. General. The parties to this First Amendment to the Agreement have determined that certain provisions of the Agreement must be amended to reflect, inter alia, the increase of the capacity of the Plant which in turn requires a modification to the Allocated Capacity of each First Supplement Purchaser and a modification to the Allocated Percentage of each Purchaser.

Section 3.02. Capital Costs Not Related to Increases of Purchasers. Paragraph (C) of Section 3.09 is amended to read as follows:

(C) Any improvements, extensions and additions necessary to be constructed to the System as capital improvements described in paragraphs (A) and (B) of this Section 3.09 constitute a "project" as such term is used in Section 6-25-110 of the Code of Laws of South Carolina, 1976, as amended ("Section 6-25-110"), and each Purchaser hereby approves the undertaking of any such capital improvements by the Seller and consents to the issuance of Improvement Bonds for each as part of the "project" and hereby represents that its governing body has specifically approved this provision pursuant to said Section 6-25-110.

Section 3.03. Debt Service Reserve Fund Payments; Use; Certain Earnings. Section 3.13 is amended to read as follows:

Section 3.13. Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into the Debt Service Reserve Fund (as defined in Seller's Bond Resolution) established for Bonds and the Series 2005 Bond as a result of an investment loss therein or as a result of replacing a surety

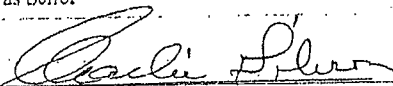
bond, letter of credit or similar instrument therein with cash or another such instrument, each Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such Debt Service Reserve Fund, an amount equal to such Purchaser's Allocated Percentage multiplied by the total amount required to be paid into such Debt Service Reserve Fund. In the event that a Purchaser is delinquent in the payment of its Capital Charge or Additional Capital Charge under this Agreement at the time payment is due

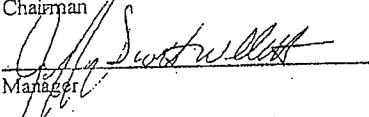
on any Bonds, Seller may cause the trustee for the Bonds to withdraw the amount of the arrearage from the Debt Service Reserve Fund. Upon payment of the arrearage by such Purchaser, such payment (less the interest included pursuant to Section 5.01(A) of this Agreement) shall be deposited into the Debt Service Reserve Fund to the extent of any such withdrawal. The interest included in any such payment of arrearages shall become the sole property of Seller. Whenever moneys in the Debt Service Reserve Fund exceed the Reserve Requirement due to earnings received from the investment of such moneys, each Purchaser shall receive a credit toward the payment of its Capital Charge and Additional Capital Charge, if any, based on Allocated Percentages. Whenever the Reserve Requirement is scheduled to decline as a result of some or all of the Bonds being scheduled for payment, the amount of the decline shall be transferred from the Debt Service Reserve Fund to the Debt Service Fund (as defined in Seller's Bond Resolution) and credited to Purchasers' payments of their Capital Charges and Additional Capital Charges, if any, related thereto.

(END OF ARTICLE III)

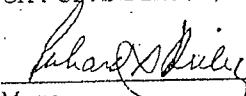
IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

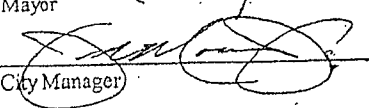
ANDERSON REGIONAL JOINT
WATER SYSTEM, SOUTH CAROLINA,
as Seller


Chairman

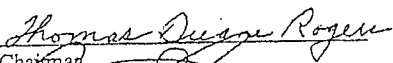

Manager

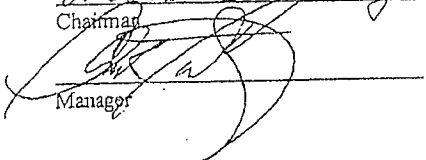
CITY OF ANDERSON, as Purchaser


Mayor


City Manager

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser


Chairman


Manager

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser

Douglas T. Lake
Chairman

Larry G.
Manager

CITY OF COLUMBIA, as Purchaser

W. H. H.
Mayor

Richard E. Cotton
City Administrator

HAMMOND WATER DISTRICT, as Purchaser

[Signature]
Chairman

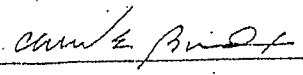
[Signature]
Manager

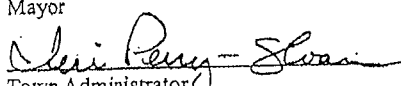
HOMELAND PARK WATER DISTRICT,
as Purchaser

James R. [Signature]
Chairman

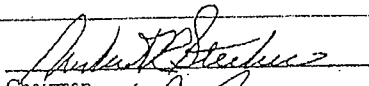
[Signature]
Manager

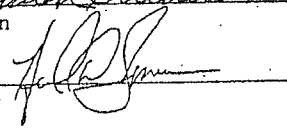
TOWN OF PENDLETON, as Purchaser


Mayor

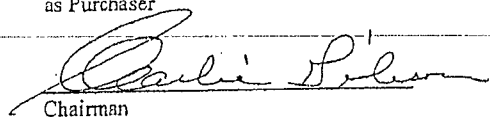

Town Administrator

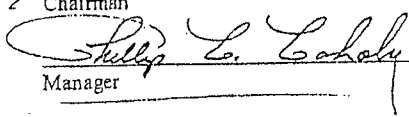
POWDERSVILLE WATER DISTRICT,
as Purchaser


Chairman

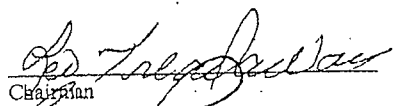

Manager

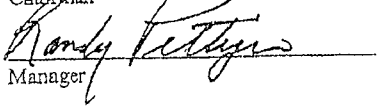
SANDY SPRINGS WATER DISTRICT,
as Purchaser


Chairman


Manager

STARR-IVA WATER AND
SEWER DISTRICT, as Purchaser


Chairman


Manager

WEST ANDERSON WATER DISTRICT,
as Purchaser

James T. Hopkins
Chairman

Alan Wilson
Manager

TOWN OF WILLIAMSTON, as Purchaser

Robert C. Cline
Mayor

Exhibit E

All Participants – Allocated Capacities and Allocated Percentages
Following Adoption of First Supplement to the Agreement

<u>PURCHASER</u>	<u>INITIAL ALLOCATED CAPACITY MGD</u>	<u>FIRST ADDITIONAL ALLOCATED CAPACITY MGD</u>	<u>ALLOCATED CAPACITY MGD</u>	<u>INITIAL ALLOCATED PERCENTAGE</u>	<u>ALLOCATED PERCENTAGE</u>
Anderson, City of	10.46	3.66	14.12	32.7%	31.38
Big Creek Water and Sewerage District	1.24	.69	1.93	3.9	4.29
Broadway Water and Sewerage District	1.08	.91	1.99	3.4	4.42
Clemson, City of	2.02	2.74	4.76	6.3	10.58
Clemson University (Joint Entity)	2.00	0	2.00	6.3	4.44
Hammond Water District	2.61	1.83	4.44	8.2	9.87
Homeland Park Water District	1.07	0	1.07	3.3	2.38
Pendleton, Town of	.62	.35	.97	1.9	2.15
Powdersville Water District	.58	.21	.79	1.8	1.76
Sandy Springs Water District	3.58	1.48	5.06	11.2	11.24
Starr-Iva Water and Sewer District	3.50	0	3.50	10.9	7.78
West Anderson Water District	2.24	.83	3.07	7.0	6.82
Williamston, Town of	1.00	.30	1.30	3.1	2.89
TOTAL	32.00	13.00	45.00	100.0%	100.0%

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Per MCP on 8/17/06 - file
with ARJWS 10754.12

**FIRST SUPPLEMENT
TO THE
RESTATED AND AMENDED**

WATER SALE AND PURCHASE AGREEMENT

among the

ANDERSON REGIONAL JOINT WATER SYSTEM

and

The Municipalities of Anderson, Clemson, Pendleton and Williamston

and the Special Purpose Districts of

The Big Creek Water and Sewerage District of Anderson County,
The Broadway Water and Sewerage District of Anderson County,
Hammond Water District, Powdersville Water District,
Sandy Springs Water District and West Anderson Water District

Dated as of December 6, 2005



Doc. No. 676837 v4 (Columbia)

Anderson Regional Joint Water System
(taken from 08-25-12 City 000209)

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EXHIBIT A - Descriptions of Each Purchaser's Debt and Lien Status of Obligations
Hereunder

EXHIBIT B - Addresses of All Parties for the Receipt of Notices

This FIRST SUPPLEMENT TO THE RESTATED AND AMENDED WATER SALE AND PURCHASE AGREEMENT (hereinafter referred to as the "First Supplement to the Agreement") made as of this ____ day of December, 2005, by and among the Anderson Regional Joint Water System, South Carolina, a joint municipal water system (hereinafter referred to as "Seller"), and the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Powdersville Water District, Sandy Springs Water District, and West Anderson Water District (hereinafter referred to as the "First Supplement Purchasers").

FINDINGS OF FACTS

Seller and the First Supplement Purchasers entered into the Water Sale and Purchase Agreement on March 21, 2002 for the purpose of providing (a) an arrangement for the operation, maintenance and expansion of Seller's waterworks system; and (b) a framework for all related activities required in connection with the Seller's provision of potable water to each of the First Supplement Purchasers as well as to Homeland Park Water District and Starr-Iva Water and Sewer District through the waterworks system of the Seller (the "System"). The Water Sale and Purchase Agreement was subsequently restated and amended on October 12, 2004 (as restated and amended, the "Agreement").

At the present time, the First Supplement Purchasers have determined that in order to meet the needs of their present and future customers for potable water, each must obtain additional capacity in the System. As required under the provisions of Section 3.10 of the Agreement, such First Supplement Purchasers have notified all of the other parties to the Agreement setting forth the

amount of such requested additional capacity and the approximate time that such additional capacity is needed.

Upon reviewing the requests of all parties to the Agreement, Seller has determined to expand the capacity of the Plant (as defined in the Agreement) by adding capacity in the amount of 13 million gallons per day ("MGD") thereby bringing the total capacity of the Plant to 45 MGD.

In order to defray the costs of the expansion to the Plant, Seller has determined to issue a ~~revenue bond in the form of a State Revolving Fund Loan from the South Carolina Water Quality~~ Revolving Fund Authority (the "Series 2005 Bond") in the principal amount of approximately \$5,388,000.

Pursuant to the provisions of Section 3.10 of the Agreement, a subsequent agreement among the Seller and the parties acquiring additional capacity and as herein defined as the First Supplement Purchasers must be entered into in order to set forth the obligations that each of the First Supplement Purchasers has with respect to the payment of the Series 2005 Bond, to provide for the funding of the Debt Service Reserve Fund (as defined herein) in accordance with Seller's Bond Resolution (as defined in the Agreement) as well as all other obligations incurred in connection therewith and to set forth the First Additional Allocated Capacity (as defined herein) obtained by such First Supplement Purchasers.

Hence, this First Supplement to the Agreement among these parties 1) has been found to be in the best interest of the public, the parties and the consumers to be served; and 2) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.

NOW, THEREFORE, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Seller and the First Supplement Purchasers agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. General. All defined terms used in this First Supplement to the Agreement if not provided a specific definition in Section 1.02 shall have the meanings given to such terms in the Agreement.

Section 1.02. Additional Definitions. In addition to the words and terms defined in the Agreement, the following words and terms as used in this First Supplement to the Agreement shall have the following meanings unless some other meaning is plainly intended:

“Debt Service Reserve Fund” means the debt service reserve fund established by Seller in order to further secure the payment of the bonds issued by Seller in accordance with Seller’s Bond Resolution.

“First Additional Allocated Capacity” means the additional Allocated Capacity each First Supplement Purchaser receives under the terms of this First Supplement to the Agreement.

“First Amendment to the Agreement” is the first amendment to the Agreement (subsequent to its being restated and amended on October 12, 2004) entered into by all parties to the Agreement. The First Amendment to the Agreement is effective on the same date as this First Supplement to the Agreement. The purpose of the First Amendment to the Agreement is to change the Allocated Percentages of all Purchasers and to modify related terms and provisions in order to take into account the additional capacity of the Plant which is to be constructed with the proceeds of the Series 2005 Bond.

"First Supplement Capital Charge" of a First Supplement Purchaser means one-twelfth (1/12) (or such other appropriate percentage for a period less than a twelve month period) of one hundred thirty percent (130%) multiplied by the annual principal and interest requirement on the Series 2005 Bond multiplied by the percentage assigned to such First Supplement Purchaser in Section 3.02 hereof. The amount of such payment is to be calculated such that one hundred and thirty percent (130%) of each annual principal and interest payment due on the Series 2005 ^{Bond} for each year is paid to Seller.

"First Supplement Purchaser" means the municipalities of Anderson, Clemson, Pendleton and Williamston and the special purpose districts of The Big Creek Water and Sewerage District of Anderson County, The Broadway Water and Sewerage District of Anderson County, Hammond Water District, Powdersville Water District, Sandy Springs Water District, and West Anderson Water District and their successors and assigns.

"First Supplement Purchaser's System" means the water distribution system of a First Supplement Purchaser or in the instance of a First Supplement Purchaser that owns a combined water and sewer system such definition means such combined water and sewer system.

"Project" means the improvements to the Plant in order to expand the capacity of the Plant from 32 MGD to 45 MGD.

"Reserve Requirement" has the definition provided in Seller's Bond Resolution.

"Series 2005 Bond" means the waterworks system revenue bond of Seller issued to construct and equip the Project.

(END OF ARTICLE I)

ARTICLE II

TERM

Section 2.01. Term of First Supplement to the Agreement. This First Supplement to the Agreement shall be effective on the date of the adoption of the First Amendment to the Agreement and shall terminate upon the termination of the Agreement.

(END OF ARTICLE II)

ARTICLE III
SALE AND PURCHASE OF FIRST ADDITIONAL ALLOCATED CAPACITY

Section 3.01. Sale of First Additional Allocated Capacity. On and after the date of the completion of the Project, Seller shall make available to each First Supplement Purchaser the amount of Potable Water set forth in the following table:

<u>First Supplement Purchaser</u>	<u>First Additional Allocated Capacity</u>
	<u>MGD</u>
Anderson, City of	3.66
Big Creek Water and Sewerage District	0.69
The Broadway Water and Sewerage District	0.91
Clemson, City of	2.74
Hammond Water District	1.83
Pendleton, Town of	0.35
Powersville Water District	0.21
Sandy Springs Water District	1.48
West Anderson Water District	0.83
Williamston, Town of	0.30

Such First Additional Allocated Capacity is in addition to each First Supplement Purchaser's Initial Allocated Capacity (as such term is defined in the First Amendment to the Agreement). Pursuant to the terms of the First Amendment to the Agreement (1) each First Supplement Purchaser's Allocated Capacity shall be modified to account for such First Additional Allocated Capacity and (2) each Purchaser's Allocated Percentage shall be modified to account for such First Additional Allocated Capacity.

Section 3.02. Purchase and Payment for First Additional Allocated Capacity. In consideration of each First Supplement Purchaser's purchasing and receiving its First Additional Allocated Capacity, each First Supplement Purchaser does hereby agree to pay to the Seller within fifteen (15) days after receipt of a statement therefor a monthly amount equal to its First Supplement Capital Charge calculated on the basis of the percentages provided in the following table:

<u>First Supplement Purchaser</u>	<u>Percentage</u>
Anderson, City of	28.15%
Big Creek Water and Sewerage District	5.31%
Broadway Water and Sewerage District	7.00%
Clemson, City of	21.08%
Hammond Water District	14.08%
Pendleton, Town of	2.69%
Powdersville Water District	1.62%
Sandy Springs Water District	11.38%
West Anderson Water District	6.38%
Williamston, Town of	2.31%
	<u>100.00%</u>

Seller agrees to bill each First Supplement Purchaser for its First Supplement Capital Charge at the same time as Seller bills each First Supplement Purchaser for its Capital Charge. Each First Supplement Purchaser agrees that no payment of one without the other may be paid unless the Seller in its own discretion agrees, in writing, to the payment of one without the other.

The amounts received by the Seller as First Supplement Capital Charges and not used to fund a debt service fund for the Series 2005 Bond or used to replenish the Debt Service Reserve Fund shall be deposited into the Facilities Renewal and Replacement Fund.

The obligation of each First Supplement Purchaser to make the payments of the First Supplement Capital Charge provided in this Section 3.02 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any component of the System, including the Project, any acts or circumstances which may constitute failure of consideration, destruction of or damage to any component of the System, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this First Supplement to the Agreement. Each First

Supplement Purchaser obligates and binds itself to punctually make the payments of the First Supplement Capital Charge free of any deduction, and without abatement, diminution or set-off of any sort. All obligations of each First Supplement Purchaser to the Seller under this First Supplement to the Agreement shall be limited to the revenues derived by each First Supplement Purchaser from the operation of each such First Supplement Purchaser's System.

Section 3.03. Priority of Pledge; Additional Obligations.

(A) Each First Supplement Purchaser's obligations hereunder shall constitute obligations under the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina, 1976, as amended and, in accordance with the provisions thereof, a pledge of and lien upon the revenues of each First Supplement Purchaser's System as hereinafter described is hereby granted to Seller.

(B) Each First Supplement Purchaser hereby represents that all outstanding debt which is payable from the revenues of such First Supplement Purchaser's System is set forth on Exhibit A attached hereto. Each First Supplement Purchaser agrees that the obligations owed to the Seller hereunder constitute obligations of the First Supplement Purchaser payable as operating expenses of such First Supplement Purchaser's System.

(C) Each First Supplement Purchaser shall not issue bonds, notes or other evidences of indebtedness payable from and secured by a lien on the revenues derived from the ownership or operation of such First Supplement Purchaser's System prior to or superior to such First Supplement Purchaser's obligation to pay the operating expenses of its respective system (including payments to be made under this First Supplement Agreement).

(D) Each First Supplement Purchaser shall not execute or adopt any instrument securing bonds, notes or other indebtedness payable from and secured by a lien on the revenues derived from

the ownership or operation of such First Supplement Purchaser's System unless such instrument provides that any payments to be made under this First Supplement to the Agreement shall be payable as operating expenses of such First Supplement Purchaser's System.

(E) Nothing contained in this Section 3.03 or any other provision of this First Supplement to the Agreement shall be deemed to prevent any First Supplement Purchaser from entering into contracts with the Seller with respect to the supply of Potable Water which contract payments are payable from the revenues derived from the ownership and operation of such First Supplement Purchaser's System on a parity with the payments required to be made to Seller pursuant to this First Supplement to the Agreement.

Section 3.04. Funding the Debt Service Reserve Fund. Each First Supplement Purchaser agrees to pay to the Seller its prorata amount of the Reserve Requirement (defined in Seller's Bond Resolution) required at the time of the issuance of the Series 2005 Bond. Each First Supplement Purchaser's prorata amount of such Reserve Requirement shall be determined on the basis of the percentages set forth in Section 3.02 hereof and deposited in the Debt Service Reserve Fund.

Section 3.05. The Debt Service Reserve Fund Payments; Use; Certain Earnings. In the event that any payment is required into the Debt Service Reserve Fund as a result of an investment loss therein or as a result of replacing a surety bond, letter of credit or similar instrument therein with cash or another such instrument, each First Supplement Purchaser covenants and agrees that it will pay, over the period of time permitted to Seller by Seller's Bond Resolution for restoring the value of such Debt Service Reserve Fund, an amount equal to such First Supplement Purchaser's Allocated Percentage multiplied by the total amount required to be paid into the Debt Service Reserve Fund. In the event that any First Supplement Purchaser is delinquent in the payment of its First Supplement Capital Charge

under this First Supplement Agreement at the time payment is due on the Series 2005 Bond, Seller may cause the trustee for the Series 2005 Bond to withdraw the amount of the arrearage from the Debt Service Reserve Fund. Upon payment of the arrearage by such First Supplement Purchaser, such payment (less the interest included pursuant to Section 4.01 of this First Supplement Agreement) shall be deposited into the Debt Service Reserve Fund to the extent of any such withdrawal. The interest included in any such payment of arrearages shall become the sole property of Seller. Whenever moneys

in the Debt Service Reserve Fund exceed the Reserve Requirement due to earnings received from the investment of such moneys and there are no outstanding Bonds, each First Supplement Purchaser shall receive a credit toward the payment of its First Supplement Capital Charge, based on the percentages set forth in Section 3.02 hereof. Whenever the Reserve Requirement is scheduled to decline as a result of some or all of the principal of the Series 2005 Bond being scheduled for payment, the amount of the decline shall be transferred from the Debt Service Reserve Fund to the Debt Service Fund (as defined in Seller's Bond Resolution) and credited to the First Supplement Purchasers' payments of their First Supplement Capital Charges related thereto, based on the percentages set forth in Section 3.02 hereof.

Section 3.06. Loss of First Additional Allocated Capacity. In the event any First Supplement Purchaser fails to make its payments to the Seller by the tenth (10th) day as provided in Section 4.01(A)(4) hereof, Seller shall provide notice to all non-defaulting First Supplement Purchasers by the fifth (5th) day following such ten (10) day period of such circumstance. In such event, each First Supplement Purchaser does hereby agree to pay all amounts then due from the defaulting First Supplement Purchaser multiplied by the quotient obtained by dividing such First Supplement Purchaser's percentage set forth in Section 3.02 by the percentages set forth in Section 3.02 of all non-defaulting First Supplement Purchasers in accordance with the instructions included in said notice from

Seller. Seller shall then transfer to all non-defaulting First Supplement Purchasers their prorata portions (determined in the foregoing manner) of the defaulting First Supplement Purchaser's First Additional Allocated Capacity. Any portion of the First Additional Allocated Capacity of a defaulting First Supplement Purchaser transferred pursuant to this Section 3.06 to non-defaulting First Supplement Purchasers shall become a part of and shall be added to the First Additional Allocated Capacities of the transferee First Supplement Purchasers by an amendment to Exhibit E of the First Amendment to the

Agreement, and the transferee First Supplement Purchasers shall thereafter be obligated to make all payments under this First Supplement to the Agreement to account for the amended First Additional Allocated Capacities and correspondingly amended Allocated Percentages. The Seller shall charge the defaulting First Supplement Purchaser with all costs and expenses incurred by Seller pursuant to this Section 3.06. The defaulting First Supplement Purchaser shall remain liable for all payments due under this First Supplement to the Agreement except that the obligations of any defaulting First Supplement Purchaser to pay Seller shall be reduced to the extent that payments, net of any costs and expenses of Seller incurred by Seller pursuant to this Section 3.06, are received by Seller for that portion of the defaulting First Supplement Purchaser's First Additional Allocated Capacity which has been transferred as provided in this Section 3.06. A defaulting First Supplement Purchaser may acquire its First Additional Allocated Capacity by paying to the non-defaulting First Supplement Purchasers all amounts paid by all non-defaulting First Supplement Purchasers with respect to the defaulting First Supplement Purchaser's obligations hereunder, plus interest at the judgment rate then in force under the laws of the State of South Carolina from the dates such amounts were paid by the non-defaulting First Supplement Purchasers to the date of repayment by the defaulting First Supplement Purchaser; and in such event, the defaulting First Supplement Purchaser's First Additional Allocated Capacity shall be restored to it;

provided, however, that no non-defaulting First Supplement Purchaser shall be required to re-sell such First Additional Allocated Capacity to a defaulting First Supplement Purchaser at any time more than two (2) years following the transfer of any First Additional Allocated Capacity from such defaulting First Supplement Purchaser to such non-defaulting First Supplement Purchaser.

Section 3.07. Rate Covenant. Each First Supplement Purchaser covenants that at all times during the term of this First Supplement to the Agreement it will impose rates and charges for services provided by such First Supplement Purchaser's System sufficient at all times to enable such First Supplement Purchaser to meet its obligations hereunder.

(END OF ARTICLE III)

ARTICLE IV

EVENTS OF DEFAULT; REMEDIES

Section 4.01. Events of Default; Remedies.

(A) (1) In the event that a First Supplement Purchaser fails to make any payment required by this First Supplement Agreement, after ten (10) days written notice to such First Supplement Purchaser of such failure, Seller may institute such action as may be necessary to enforce payment of such amounts (including interest on past due amounts at the judgment rate then in force under the laws of the State of South Carolina, from the date such amount becomes due until paid in full).

(2) In the event that a First Supplement Purchaser fails to perform any other covenant or agreement herein made, Seller may, after ten (10) days written notice to such First Supplement Purchaser of such failure, bring action against such First Supplement Purchaser for the specific performance by such First Supplement Purchaser of such other covenant or agreement or, in the event that such failure impairs such First Supplement Purchaser's ability to make payments required by this First Supplement to the Agreement, for the appointment of a receiver to administer and operate such First Supplement Purchaser's System, or for the enforcement of rights and remedies pursuant to the United States Bankruptcy Code.

(3) In the event that a failure by a First Supplement Purchaser to perform any covenant or agreement herein made is the proximate cause of any physical damage to the Facilities, such First Supplement Purchaser shall be responsible for the cost of repairing such damages, and Seller may bring an action therefor.

(4) In the event a First Supplement Purchaser has not paid Seller all amounts required under the provisions of Section 3.02 of this First Supplement Agreement by the sixtieth (60th) day following the written notice provided by Seller in paragraph (1) above, Seller may at any time thereafter, upon ten (10) days notice to such First Supplement Purchaser proceed under the provisions of Section 3.06 of this First Supplement to the Agreement and each First Supplement Purchaser, in such event, does hereby appoint Seller as its agent for the purpose of allocating such First Supplement Purchaser's First Additional Allocated Capacity among the non-defaulting First Supplement Purchasers according to the procedure set forth in Section 3.06 of this First Supplement to the Agreement.

(5) No First Supplement Purchaser shall be liable in any event for punitive, economic or third-party damages.

(B) (1) In the event that Seller fails to perform any covenant or agreement herein made, each First Supplement Purchaser, after ten (10) days written notice to Seller of such failure may bring action against Seller for the specific performance by Seller of such covenant or agreement.

(2) In the event that a failure by Seller to perform any covenant or agreement herein made is the proximate cause of any physical damage to a First Supplement Purchaser's System, Seller shall be responsible for the cost of repairing such damages, and such First Supplement Purchaser may bring an action therefor.

(3) Notwithstanding that if Seller shall become indebted to a First Supplement Purchaser by reason hereof, such First Supplement Purchaser shall have no right to offset its obligations to make payments under the provisions of this First Supplement to the Agreement. Seller shall not be liable in any event for punitive, economic or third-party damages.

Section 4.02. Mediation and Arbitration.

(A) Any controversy or claim arising out of, or relating to this First Supplement to the Agreement or the breach thereof, may be submitted to arbitration at the time, in the manner and upon the terms agreed upon by the parties as the preferred means of settling disputes. In such event, as a prerequisite to arbitration, any dispute shall first be submitted to mediation before an experienced mediator selected by the parties. If the parties, after a request for mediation, cannot agree on a

mediator within ten (10) days of such request either party can request the American Arbitration Association (AAA) to appoint a mediator and mediation should proceed under the AAA commercial mediation rules. After failing to resolve the dispute by mediation, either party may request the AAA to appoint an arbitration panel composed of a professional engineer, a certified public accountant and a practicing attorney each of whom has experience in the operation of water treatment and water distribution facilities. Arbitration shall proceed at the earliest possible date under the AAA commercial arbitration rules. The place for mediation or arbitration shall be Anderson, South Carolina, unless the parties agree otherwise. Any judgment upon the award may be entered in any court having jurisdiction. To the extent the parties agree, the decision of the arbitrator shall be final and binding upon the parties.

(B) Arbitration shall not be considered the sole or exclusive means of settling controversies which may arise under the terms and provisions of this First Supplement to the Agreement, nor shall arbitration be considered a condition precedent to any action in a court of law or equity or proceedings before any governmental agency or regulatory body having jurisdiction thereof.

(END OF ARTICLE IV)

ARTICLE V

MISCELLANEOUS

Section 5.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by certified or registered mail, postage prepaid and addressed in accordance with the directions provided in Exhibit B attached hereto.

Any party hereto may, by notice given to the other parties to this First Supplement to the Agreement designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 5.02. Beneficiaries; Assignment. All covenants and agreements contained in this First Supplement Agreement shall inure to the benefit of the Seller and each First Supplement Purchaser and their respective successors and assigns. It is specifically acknowledged by all parties that Seller's (1) rights to receive all the payments under this First Supplement Agreement and (2) the payments required by this First Supplement Agreement are pledged to the payment of bonds issued by Seller under Seller's Bond Resolution and that in connection with the issuance of such bonds, the provisions of this First Supplement Agreement, are a part of the contract between the Seller and its bondholders. Seller may assign such rights to the receipts of all payments hereunder and the revenues received from the payments hereunder to a trustee who may cause a receiver to be appointed with respect thereto and otherwise succeed to all interests and rights of the Seller.

Section 5.03. Counterparts. This First Supplement to the Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.04. Governing Law. This First Supplement to the Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

Section 5.05. Amendments. This First Supplement to the Agreement may not be amended, changed, modified or terminated without in each instance the prior written consent of the parties hereto.

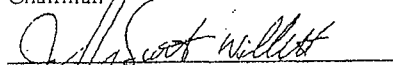
Section 5.06. Severability. In case any one or more of the provisions of this First Supplement to the Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this First Supplement to the Agreement, but this First Supplement to the Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation, or agreement contained in this First Supplement to the Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation, or agreement shall nonetheless be enforced to the full extent permitted by law.

(END OF ARTICLE V)

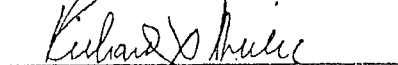
IN WITNESS WHEREOF, the parties hereto have caused this First Supplement to the Agreement to be signed in their names by their duly authorized officers as of the date first hereinabove written.

ANDERSON REGIONAL JOINT
WATER SYSTEM, SOUTH CAROLINA,
as Seller


Chairman

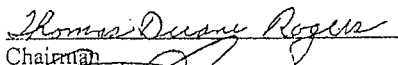

Manager

CITY OF ANDERSON, as Purchaser


Mayor


City Manager

THE BIG CREEK WATER AND SEWERAGE
DISTRICT OF ANDERSON COUNTY,
as Purchaser


Chairman


Manager

THE BROADWAY WATER AND
SEWERAGE DISTRICT OF
ANDERSON COUNTY, as Purchaser.

Douglas T. Loh
Chairman

Jimmy Cox
Manager

CITY OF CLEMSON, as Purchaser

W. H. [Signature]
Mayor

Richard J. Cotton
City Administrator

HAMMOND WATER DISTRICT, as Purchaser

[Signature]
Chairman

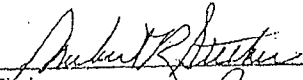
[Signature]
Manager

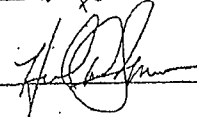
TOWN OF PENDLETON, as Purchaser

Cam E. Burt
Mayor

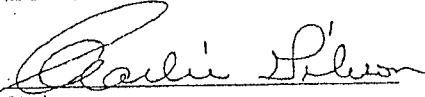
Dei Perry-Hoan
Town Administrator

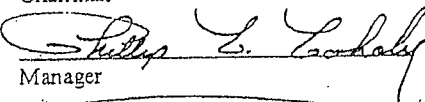
POWDERSVILLE WATER DISTRICT,
as Purchaser


Chairman

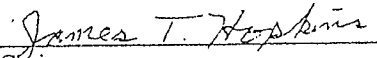

Manager

SANDY SPRINGS WATER DISTRICT,
as Purchaser


Chairman


Manager

WEST ANDERSON WATER DISTRICT,
as Purchaser


Chairman


Manager

TOWN OF WILLIAMSTON, as Purchaser

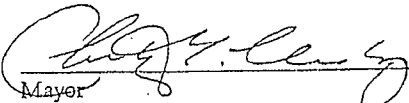

Mayor

Exhibit A

City of Anderson, South Carolina

A. Outstanding Debt Payable from Revenues of Purchaser's Water and/or Sewer System

1. \$6,910,000 Sewer System Revenue Refunding Bonds, Series 1998, maturing July 1, 2018. Amount outstanding as of November 1, 2005 is \$5,055,000.
2. \$20,415,000 Water and Sewer System Revenue Bonds, Series 2002, maturing July 1, 2032. Amount outstanding as of November 1, 2005 is \$20,045,000.
3. \$41,885,000 Water and Sewer System Revenue Bonds, Series 2003, maturing July 1, 2028. Amount outstanding as of November 1, 2005 is \$39,050,000.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt under item A.1. (the "Senior Lien Debt") is secured by a pledge of net revenues of the City's sewer system. The above-referenced debt under items A.2. and A.3. is secured by a pledge of net revenues of the City's water and sewer system.

C. Lien status of obligations under this Agreement

Until such time as the Senior Lien Debt is paid in full, revenues of the water and sewer system will be disposed of as follows:

- First, to pay operating expenses allocable to sewer;
- Second, to pay the Senior Lien Debt;
- Third, to fund any debt service reserve funds for the Senior Lien Debt;
- Fourth, to make any deposits to the sewer capital improvements fund;
- Fifth, to pay operating expenses allocable to water (which shall include obligations under this Agreement, as amended or supplemented from time to time);
- Sixth, to pay debt service on the bonds listed under items A.2. and A.3. and any parity lien bonds;
- Thereafter, to make such other payments as are set out in the authorizing ordinances for the bonds listed under items A.2. and A.3 and any parity lien bonds.

Once the Senior Lien Debt is paid in full, revenues of Purchaser's water and sewer system will be disposed of as follows:

- First, to pay operating expenses of the combined water and sewer system (including obligations under this Agreement);
- Second, to pay debt service on the bonds listed under items A.2. and A.3 and any parity lien bonds;
- Thereafter, to make such other payments as are set out in the authorizing ordinances for the bonds listed under items A.2. and A.3 and any parity lien bonds.

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

The Big Creek Water and Sewerage District of Anderson County

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$1,400,000 Revenue Bond, Series 1974, dated October 24, 1974, maturing January 1, 2014.
Amount outstanding as of November 1, 2005 is \$532,143.88.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt (the "Senior Lien Debt") is secured by a statutory lien on Purchaser's water system and a pledge of the gross revenues of said system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

The Broadway Water and Sewerage District of Anderson County

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$508,000 Waterworks System Revenue Bonds, Series 1974, maturing December 12, 2014. Amount outstanding as of November 1, 2005 is \$209,086.47.
2. \$315,000 Waterworks System Revenue Bonds (second lien), Series 1977, maturing in December, 2017. Amount outstanding as of November 1, 2005 is \$154,027.66.
3. \$438,000 Waterworks System Revenue Bonds (third lien), Series 1982, maturing January 22, 2022. Amount outstanding as of November 1, 2005 is \$284,560.04.
4. \$116,000 Waterworks System Revenue Bonds (fourth lien), Series 1990, dated December 18, 1990, maturing December 18, 2015. Amount outstanding as of November 1, 2005 is \$73,944.83.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt (the "Senior Lien Debt") is secured by a statutory lien on Purchaser's water system and a pledge of the gross revenues of said system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

City of Clemson, South Carolina

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$450,000 Water and Sewer System Revenue Bonds, Series 1991, maturing June 21, 2006.
Amount outstanding as of November 1, 2005 is \$23,950.
2. \$2,100,000 Water and Sewer System Revenue Bonds, Series 1994, maturing November 9, 2014. Amount outstanding as of November 1, 2005 is \$962,500.
3. \$3,379,870 State Revolving Fund Note, Series 2005A, maturing on June 17, 2035.
Amount outstanding as of November 1, 2005 is \$3,379,870.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of the net revenues of the Purchaser's water and sewer system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of the Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Hammond Water District

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$500,000 Promissory Note dated March, 1973, maturing March, 2013. Amount outstanding as of November 1, 2005 is \$139,430.23.
2. \$700,000 Promissory Note dated October, 1981, maturing October, 2021. Amount outstanding as of November 1, 2005 is \$429,640.43.

B. Pledge Securing Outstanding Revenue Debt

~~The above referenced debt is secured by a pledge of the gross revenues of Purchaser's water system.~~

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Town of Pendleton, South Carolina

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$600,000 Waterworks and Sewer System Revenue Bond, Series 2005, maturing April 1, 2020. Amount outstanding as of November 1, 2005 is \$600,000.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of net revenues of the Town's waterworks and sewer system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Powdersville Water District

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$356,075 Waterworks System Revenue Refunding Bonds, Series 2002A, maturing January 1, 2010. Amount outstanding as of November 1, 2005 is \$154,643.85.
2. \$440,381 Waterworks System Revenue Refunding Bonds, Series 2002B, maturing August 14, 2021. Amount outstanding as of November 1, 2005 is \$385,213.09.
3. \$1,599,200 Waterworks System Revenue Bond, Series 2003, maturing March 14, 2043. Amount outstanding as of November 1, 2005 is \$1,559,352.66.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt in items A.1. and A.2. is secured by a pledge of gross revenues of Purchaser's water system. The above-referenced debt in item A.3. is secured by a pledge of the net revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Sandy Springs Water District

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$165,778 Waterworks System Revenue Refunding Bonds, Series 2002A, maturing January 1, 2011. Amount outstanding as of November 1, 2005 is \$85,804.37.
2. \$167,938 Waterworks System Revenue Refunding Bonds, Series 2002B, maturing January 1, 2011. Amount outstanding as of November 1, 2005 is \$88,391.58.
3. \$60,131 Waterworks System Revenue Refunding Bonds, Series 2002C, maturing January 1, 2012. Amount outstanding as of November 1, 2005 is \$35,918.11.
4. \$177,284 Waterworks System Revenue Refunding Bonds, Series 2002D, maturing May 28, 2019. Amount outstanding as of November 1, 2005 is \$144,704.70.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of gross revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

West Anderson Water District

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$328,300 Promissory Note dated May 24, 1973, and maturing May 24, 2013. Amount outstanding as of November 1, 2005 is \$100,026.
2. \$160,000 Promissory Note dated November 16, 1973, maturing November 16, 2013. Amount outstanding as of November 1, 2005 is \$51,161.
3. \$25,000 Promissory Note dated March 13, 1975, maturing May 13, 2015. Amount outstanding as of November 1, 2005 is \$10,035.
4. \$175,000 Promissory Note dated January 23, 1978, maturing January 23, 2018. Amount outstanding as of November 1, 2005 is \$86,078.
5. ~~\$106,600 Promissory Note dated October 4, 1979, maturing October 4, 2019. Amount outstanding as of November 1, 2005 is \$61,719.~~
6. \$273,700 Waterworks System Revenue Bond, Series 2002, maturing August 20, 2012. Amount outstanding as of November 1, 2005 is \$259,345.
7. \$1,200,000 Waterworks System Revenue Bond, Series 2002A, maturing August 20, 2012. Amount outstanding as of November 1, 2005 is \$880,010.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt in items A.1. through A.5. is secured by a pledge of the gross revenues of Purchaser's water system. The above-referenced debt in items A.6. and A.7. is secured by a pledge of the net revenues of Purchaser's water system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Town of Williamston, South Carolina

A. Outstanding Debt Payable from Revenues of Purchaser's Water System

1. \$2,533,500 Waterworks and Sewer System Refunding Revenue Bond, Series 2002, dated March 14, 2002 maturing November 14, 2012. Amount outstanding as of November 1, 2005 is \$1,844,191.05.

B. Pledge Securing Outstanding Revenue Debt

The above-referenced debt is secured by a pledge of gross revenues of Purchaser's waterworks and sewer system.

C. Lien status of obligations under this Agreement

As provided in Section 3.03(C) of this Agreement, Purchaser shall not issue any further bonds, notes or other evidences of indebtedness payable from or secured by a lien on the revenues of Purchaser's water system which is prior or superior to Purchaser's obligation to pay the operating expenses of such system, which expenses shall be deemed to include all payments to be made under this Agreement.

Exhibit B

Addresses of All Parties for the Receipt of Notice

Anderson Regional Joint Water System
6910 Clemson Boulevard
Pendleton, South Carolina 29670
Attn: Manager

City of Anderson
401 South Main Street
Anderson, South Carolina 29624
Attn: City Manager

The Big Creek Water and Sewerage District of Anderson County
250 Mitchell Road
Belton, South Carolina 29627
Attn: Manager

The Broadway Water and Sewerage District of Anderson County
4926 Belton Highway
Anderson, South Carolina 29621
Attn: Manager

City of Clemson
Post Office Box 1566
Clemson, South Carolina 29633-1566
Attn: City Manager

Hammond Water District
250 Mitchell Road
Belton, South Carolina 29627
Attn: Manager

Town of Pendleton
108 South Depot Street - Municipal Complex
Pendleton, South Carolina 29670
Attn: City Administrator

Powdersville Water District
1719 Circle Road
Easley, South Carolina 29642
Attn: Manager

B-1.

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08.25.12 City 000242

Sandy Springs Water District
6910 Clemson Boulevard
Pendleton, South Carolina 29670
Attn: Manager

West Anderson Water District
2767 White Hall Road
Anderson, South Carolina 29625
Attn: Manager

Town of Williamston
12 West Main Street
Williamston, South Carolina 29697
Attn: Mayor



June 11, 2012

Mr. Steve Wilson
Manager West Anderson Water District
2767 Whitehall Road
Anderson, SC 29625

RE: Provision of Water Service for Michelin

Dear Mr. Wilson:

The City of Anderson has been advised that West Anderson Water District has contacted Michelin for the purpose of discussing the provision of water service to Michelin.

The Water Sale and Purchase Agreement among the Anderson County Joint Municipal Water System dated March 21, 2002 provides that the Michelin site is within the territory of the City of Anderson. Please review section 6.02 of the agreement which provides that the parties agreed upon a Territorial Map of the territories in order to set out the area each intends to serve. Section 6.02 states that the territories were agreed upon in order for each purchaser to successfully plan and finance additions and "to avoid future disputes".

I enclose a copy of the portion of exhibit D which clearly shows that the Michelin site is within the territory of the City of Anderson. In addition, West Anderson Water District specifically consented to the City of Anderson serving the Michelin site.

The Michelin Industrial site was originally part of the Duke Energy Water System which was purchased from Duke Energy by the City of Anderson. At that time, Duke Energy assigned its contract with Michelin North America for the provision of water services. Prior to the announcement of the addition to the Michelin plant, the City of Anderson has been working with Michelin for a modification of our contract with Michelin.



5000481

GBLLC 000029

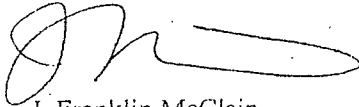
Mr. Steve Wilson
June 11, 2012
Page Two

It is the position of the City of Anderson that the prior agreements and Territorial Map clearly identify Michelin and the site upon which it is located as a customer of the City of Anderson. It is our request that West Anderson cease contact with Michelin regarding water service to the site.

The City of Anderson is committed to working with the Joint System and all of its members in honoring our joint agreement to provide water service and to assist in attracting industry. Based upon the clear intent of the agreement I would certainly hope that this matter can be resolved amicably in order to avoid any negative impact a dispute might have on our common goal.

Please give me a call or have your attorney give me a call if you would like to discuss further.

Very truly yours,



J. Franklin McClain

JFM/hem

Enclosure

CC: Rusty Burns

Burris Nelson

Scott Willett

5000482

GBLLC 000030



WATER SERVICE AGREEMENT

This Agreement is made and entered into as of the 8th day of August 2014, by and between the CITY OF ANDERSON (hereinafter designated as the "Seller") and Micheln North America, Inc. (hereinafter designated as the "Customer").

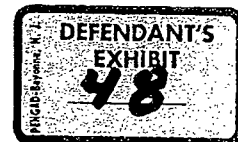
WITNESSETH:

That in consideration of the covenants and agreements hereinafter contained and other valuable considerations, the parties hereto, for themselves, their successors and assigns, mutually agree as follows:

1. The Seller will deliver water to the Customer, which the Customer will use and pay for, subject to the terms and conditions of this Agreement. This Agreement shall continue in force, until ~~five (5) years~~ and thereafter, it shall continue in force from year to year, provided that either party may terminate this Agreement at the end of the original term of five (5) years, or at the end of any year thereafter, by giving at least one hundred and eighty (180) days prior written notice of such termination to the other party. The sale, delivery and use of water hereunder, and all services to be rendered or performed by the Seller in connection therewith, shall in all respects be subject to and in accordance with the terms and conditions of this Agreement. The Seller reserves the right and the Customer hereby grants the Seller the right after ninety (90) days notice to suspend the furnishing of any water hereunder or to terminate this Agreement for breach of any of the Seller's Water Service Regulations; provided a mutually agreeable solution to any breach cannot be reached by the Seller and the Customer prior to the end of the (90) day notice period. Where an emergency exists within the Seller's system, or where a dangerous condition is found to exist within the Customer's system, the water may be shut off without such notice. Upon the termination or expiration of this Agreement, it is expressly agreed and understood that the Seller shall have the right to enter upon the premises of the Customer at such place or places in which any meter or other property of the Customer is located and to remove the same.
2. The water to be delivered hereunder shall be provided for twenty four (24) hours a day, three hundred sixty five (365) days per year. Said water shall be provided to the Customer at the following described delivery point(s):

<u>Meter No.</u>	<u>Size</u>	<u>Location</u>
612019	1/2"	US-8 1 Bibb Way, Anderson, SC

3. The Customer will pay for such meters as necessary to measure and record the amount of water delivered. Such meters shall become and remain the property of the Seller. If



requested by the Customer, the Seller shall test such meter at reasonable times and intervals to establish its commercial accuracy.

4. The Customer agrees to furnish and install backflow preventers on the Customer's side of the meter in its service line. The Customer shall be responsible for all costs associated with installing the backflow preventers in the meter pit, including any required valves and accessories. If it is deemed necessary to control the pressure provided, the Customer will provide a pressure reducer designed and sized to prevent damage to the Customer's equipment, which may result from excessive pressure from the Seller's system. All responsibility for maintenance and operation of the backflow preventer and pressure reducer is the Customer's.
5. The total installation of the meter, backflow preventer, pressure reducer, accessories and vault for housing shall be in accordance with all applicable rules and regulations of the South Carolina Department of Health and Environmental Control (hereinafter designated as "SCDHEC"). The Customer agrees to test the backflow preventer after installation and annually thereafter. The testing and any required maintenance shall be performed by a technician certified by SCDHEC. Test results shall be promptly filed with the Seller.
6. The Seller began to deliver water hereunder or was able to do so, at such date on or before March 5, 2013, as may be mutually agreed upon by the parties hereto, and the Customer will be ready to receive and use water on said date.
7. Sale, delivery and use of water hereunder shall be subject to the industrial rate schedule and charges included in Chapter 78, Article V of the City Code.
8. The Customer agrees that its minimum monthly water bill for volume hereunder for each month beginning on the effective date of the agreement shall be based on a minimum monthly usage of 1,000,000 gallons (133,672 cubic feet). The Customer agrees to pay bills rendered each month by the Seller to the Customer for the minimum usage as stated above or for the water actually delivered during such month, whichever amount is greater.
9. The maximum amount of water which the Seller initially agrees to deliver is 200,000 gallons per day, provided, however, in no event shall the Seller be required to deliver more than 833 gallons per minute instantaneously for a period of more than 4 consecutive hours. The Customer further agrees not to take water in excess of 5,500,000 gallons during any month without obtaining the Seller's prior written consent.
10. The Customer agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Customer's risk and the Customer further agrees that the Seller not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of the Seller to supply water hereunder.
11. The Seller agrees to provide a regular water service, but if the Seller is wholly or partially prevented from delivering water hereunder by force majeure such as, fire, flood, drought, low water, act of the Government, or any other cause beyond the Seller's

reasonable control, then and in such event, the Seller shall not be liable to the Customer during such period of prevention. The seller shall use reasonable efforts to remove and overcome such cause or causes.

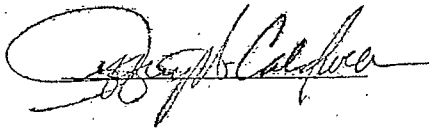
12. The seller reserves the right and the Customer hereby grants to the Seller the right to suspend the furnishing of any water hereunder during a fire in the City of Anderson, or in the vicinity thereof, served by its waterworks system, or during the time or times that the Fire Department of the City of Anderson may be using water to extinguish a fire or fires, or for the prevention of a fire or fires, it being understood and agreed that the demands of the Fire Department of the City of Anderson shall be paramount to the requirements of the Customer, provided the suspension of service is a matter of public safety.
13. Bills rendered to the Customer under this Agreement are due and payable on the date of the bill at the office of the Seller. Bills are past due and delinquent on the thirtieth (30) day after the date of the bill and will be subject to a 10 percent late charge. In addition, all bills not paid by the sixtieth (60) day after the date of the bill shall be subject to a 1 1/2 percent interest charge per month on the unpaid amount. If the bill has not been paid after the sixtieth day from the date the bill was issued, then the Seller may, at its option and in addition to any other available rights or remedies, terminate this Agreement, or, without terminating this Agreement, suspend the delivery of water hereunder until full payment of all money has been made. This option may be exercised by the Seller as often as any such default shall occur, and delay or omission on the part of the Seller to exercise such option shall not be deemed a waiver of its right to exercise such option whenever such default on the part of the Customer shall occur. In the event of termination or expiration of this Agreement, the Customer agrees that the Seller shall have the right to enter upon the Customer's premises at the mutually agreeable means of egress and ingress solely to the meter locations on Customers property to remove the meter and any other property of the Seller.
14. The obligations of the Seller hereunder are conditioned upon its securing and retaining all necessary wholesale water, rights-of-way, privileges and permits for the delivery of such water. The Seller shall not be liable to the Customer for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, privileges and permits.
15. Neither party shall be liable to the other party, whether based on Contract, Tort (including negligence and strict liability) under any warranty or otherwise arising out of or related to this Agreement, for any consequential, indirect, special or incidental loss or damage, any damage to or loss of any property or equipment, any loss or use of service interruption, costs of capital or expenses thereof, loss of profits or revenues or the loss of use thereof, or claim of any third party, unless; and to the extent the claim arises from negligence, gross negligence or willful misconduct of the party.
The Provisions of this Section 15 shall apply notwithstanding any other provision of this Agreement and shall survive the termination of this Agreement and shall remain in full force and effect.

16. This Agreement is a complete contract and contains the entire agreement between the parties relating to the subject matter hereof. All prior communications, understandings, or representations, whether written or oral, are hereby superseded. No Modification, amendment or other change in this Agreement shall be effective for any purpose unless specifically set forth in writing signed by the party to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the date first above-written.

ATTEST:

CITY OF ANDERSON



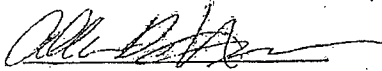
BY:

Title:

City Manager

ATTEST:

Michelin North America, Inc.



BY:

Title:

Norman King
Vice President, Purchasing



WATER SERVICE AGREEMENT

This Agreement is made and entered into as of the 8th day of August 2011, by and between the CITY OF ANDERSON (hereinafter designated as the "Seller") and Michelin North America, Inc. (hereinafter designated as the "Customer").

WITNESSETH:

That in consideration of the covenants and agreements hereinafter contained and other valuable considerations, the parties hereto, for themselves, their successors and assigns, mutually agree as follows:

1. The Seller will deliver water to the Customer, which the Customer will use and pay for, subject to the terms and conditions of this Agreement. This Agreement shall continue in force, ~~until five (5) years~~; and thereafter, it shall continue in force from year to year, provided that either party may terminate this Agreement at the end of the original term of five (5) years, or at the end of any year thereafter, by giving at least one hundred and eighty (180) days prior written notice of such termination to the other party. The sale, delivery and use of water hereunder, and all services to be rendered or performed by the Seller in connection therewith, shall in all respects be subject to and in accordance with the terms and conditions of this Agreement. The Seller reserves the right and the Customer hereby grants the Seller the right after ninety (90) days notice to suspend the furnishing of any water hereunder or to terminate this Agreement for breach of any of the Seller's Water Service Regulations; provided a mutually agreeable solution to any breach cannot be reached by the Seller and the Customer prior to the end of the (90) day notice period. Where an emergency exists within the Seller's system, or where a dangerous condition is found to exist within the Customer's system, the water may be shut off without such notice. Upon the termination or expiration of this Agreement, it is expressly agreed and understood that the Seller shall have the right to enter upon the premises of the Customer at such place or places in which any meter or other property of the Customer is located and to remove the same.
2. The water to be delivered hereunder shall be provided for twenty four (24) hours a day, three hundred sixty five (365) days per year. Said water shall be provided to the Customer at the following described delivery point(s):

<u>Meter No.</u>	<u>Size</u>	<u>Location</u>
458192	10"	US10 10 Bibb Way, Anderson, SC

3. The Customer will pay for such meters as necessary to measure and record the amount of water delivered. Such meters shall become and remain the property of the Seller. If



requested by the Customer, the Seller shall test such meter at reasonable times and intervals to establish its commercial accuracy.

4. The Customer agrees to furnish and install backflow preventers on the Customer's side of the meter in its service line. The Customer shall be responsible for all costs associated with installing the backflow preventers in the meter pit, including any required valves and accessories. If it is deemed necessary to control the pressure provided, the Customer will provide a pressure reducer designed and sized to prevent damage to the Customer's equipment, which may result from excessive pressure from the Seller's system. All responsibility for maintenance and operation of the backflow preventer and pressure reducer is the Customer's.
5. The total installation of the meter, backflow preventer, pressure reducer, accessories and vault for housing shall be in accordance with all applicable rules and regulations of the South Carolina Department of Health and Environmental Control (hereinafter designated as "SCDHEC"). The Customer agrees to test the backflow preventer after installation and annually thereafter. The testing and any required maintenance shall be performed by a technician certified by SCDHEC. Test results shall be promptly filed with the Seller.
6. The Seller began to deliver water hereunder or was able to do so, at such date on or before March 5, 2013, as may be mutually agreed upon by the parties hereto, and the Customer will be ready to receive and use water on said date.
7. Sale, delivery and use of water hereunder shall be subject to the industrial rate schedule and charges included in Chapter 78, Article V of the City Code.
8. The Customer agrees that its minimum monthly water bill for volume hereunder for each month beginning on the effective date of the agreement shall be based on a minimum monthly usage of 1,000,000 gallons (133,672 cubic feet). The Customer agrees to pay bills rendered each month by the Seller to the Customer for the minimum usage as stated above or for the water actually delivered during such month, whichever amount is greater.
9. The maximum amount of water which the Seller initially agrees to deliver is 200,000 gallons per day, provided, however, in no event shall the Seller be required to deliver more than 833 gallons per minute instantaneously for a period of more than 4 consecutive hours. The Customer further agrees not to take water in excess of 4,000,000 gallons during any month without obtaining the Seller's prior written consent.
10. The Customer agrees that if the water delivered hereunder is used for fire protection purposes, such use shall be at the Customer's risk and the Customer further agrees that the Seller not be liable for any loss or damage by fire even if such loss or damage is occasioned from the failure of the Seller to supply water hereunder.
11. The Seller agrees to provide a regular water service, but if the Seller is wholly or partially prevented from delivering water hereunder by force majeure such as, fire, flood, drought, low water, act of the Government, or any other cause beyond the Seller's

reasonable control, then and in such event, the Seller shall not be liable to the Customer during such period of prevention. The seller shall use reasonable efforts to remove and overcome such cause or causes.

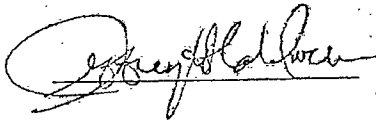
12. The seller reserves the right and the Customer hereby grants to the Seller the right to suspend the furnishing of any water hereunder during a fire in the City of Anderson, or in the vicinity thereof, served by its waterworks system, or during the time or times that the Fire Department of the City of Anderson may be using water to extinguish a fire or fires, or for the prevention of a fire or fires, it being understood and agreed that the demands of the Fire Department of the City of Anderson shall be paramount to the requirements of the Customer, provided the suspension of service is a matter of public safety.
13. Bills rendered to the Customer under this Agreement are due and payable on the date of the bill at the office of the Seller. Bills are past due and delinquent on the thirtieth (30) day after the date of the bill and will be subject to a 10 percent late charge. In addition, all bills not paid by the sixtieth (60) day after the date of the bill shall be subject to a 1 1/2 percent interest charge per month on the unpaid amount. If the bill has not been paid after the sixtieth day from the date the bill was issued, then the Seller may, at its option and in addition to any other available rights or remedies, terminate this Agreement, or, without terminating this Agreement, suspend the delivery of water hereunder until full payment of all money has been made. This option may be exercised by the Seller as often as any such default shall occur, and delay or omission on the part of the Seller to exercise such option shall not be deemed a waiver of its right to exercise such option whenever such default on the part of the Customer shall occur. In the event of termination or expiration of this Agreement, the Customer agrees that the Seller shall have the right to enter upon the Customer's premises at the mutually agreeable means of egress and ingress solely to the meter locations on Customers property to remove the meter and any other property of the Seller.
14. The obligations of the Seller hereunder are conditioned upon its securing and retaining all necessary wholesale water, rights-of-way, privileges and permits for the delivery of such water. The Seller shall not be liable to the Customer for any failure to deliver water resulting from its failure to secure and retain such rights-of-way, privileges and permits.
15. Neither party shall be liable to the other party, whether based on Contract, Tort (including negligence and strict liability) under any warranty or otherwise arising out of or related to this Agreement, for any consequential, indirect, special or incidental loss or damage, any damage to or loss of any property or equipment, any loss or use of service interruption, costs of capital or expenses thereof, loss of profits or revenues or the loss of use thereof, or claim of any third party, unless; and to the extent the claim arises from negligence, gross negligence or willful misconduct of the party.
The Provisions of this Section 15 shall apply notwithstanding any other provision of this Agreement and shall survive the termination of this Agreement and shall remain in full force and effect.

16. This Agreement is a complete contract and contains the entire agreement between the parties relating to the subject matter hereof. All prior communications, understandings, or representations, whether written or oral, are hereby superseded. No Modification, amendment or other change in this Agreement shall be effective for any purpose unless specifically set forth in writing signed by the party to be bound thereby.

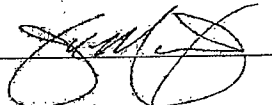
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

ATTEST:

CITY OF ANDERSON



BY:



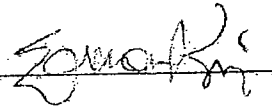
Title: City Manager

ATTEST:

Michelin North America, Inc.



BY:



Title: Norman King
Vice President, Purchasing

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
West Anderson Water District	)	
	)	DEFENDANT'S OBJECTIONS AND
	)	ANSWERS TO PLAINTIFF'S
Plaintiff,	)	SECOND SET OF
	)	DISCOVERY REQUESTS
v.	)	
	)	
City of Anderson, South Carolina,	)	C.A. No. 2012-CP-04-02770
	)	
Defendant.	)	
	)	

TO: PLAINTIFF WEST ANDERSON WATER DISTRICT

Defendant City of Anderson, South Carolina (the "City") submits the following objections and answers to Plaintiff West Anderson Water District's (the "District") Second Set of Discovery Requests pursuant to Rules 33, 34, & 36 of the South Carolina Rules of Civil Procedure.

GENERAL OBJECTIONS

The City of Anderson objects to the "Instructions & Definitions" preceding Plaintiff's

Second Set of Discovery Requests on the grounds that:

1. The "Instructions & Definitions," when coupled with Plaintiff's actual discovery requests, violate Rule 33(b)(9).
2. To the extent that such "Instructions & Definitions" purport to instruct the City of Anderson how to answer, such "Instructions & Definitions" are contrary to the South Carolina Rules of Civil Procedure;
3. The "Instructions & Definitions" are vague and ambiguous. Unless otherwise indicated, the City of Anderson has employed the ordinary meaning of the terms used in each discovery request; and

4. To the extent that Plaintiff's discovery requests seek information that is not within the possession, custody, or control of the City of Anderson, such interrogatories and/or document requests are contrary to the South Carolina Rules of Civil Procedure.

DEFINITIONS

1. "ARJWS" means the Anderson Regional Joint Water System, including any predecessor entities.
2. "Duke" means Duke Energy Corporation.
3. "Michelin" means Michelin North America, Inc.
4. "Asset Purchase Agreement" means the Asset Purchase Agreement entered into by and between Big Creek Water and Sewerage District, Broadway Water and Sewerage District, Hammond Water Company, Powdersville Water Company, Sandy Springs Water Company, Starr-Iva Water Company, and the District and Duke dated as of February 14, 2000.
5. "Asset Sale Agreement" means the Asset Sale Agreement by and between Duke and the City dated as of February 20, 2002.
6. "WSPA" means the Water Sale and Purchase Agreement dated as of March 21, 2002.
7. "Existing Plant" means Michelin's rubber processing plant that is located on the Michelin Site.
8. "New Facility" means Michelin's planned facility to manufacture tires for large construction equipment that is to be located on the Michelin Site.
9. "Michelin Site" means the real property that is depicted as part of the City's service area on the Territorial Map that is attached as Exhibit D to the WSPA on which the

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industrial facilities of Michelin, including but not limited to the Existing Plant and the New Facility, are located.

SPECIFIC OBJECTIONS AND ANSWERS

DOCUMENTS TO BE PRODUCED

1. **Any and all invoices supporting the City's counterclaim for damages.**

Subject to the City's General Objections, see the documents that are being produced with these responses which bear Bates numbers 04.24.14 000001 through 04.24.14 00056.

2. **Any "as built" plans or photographs relating to the City's provision of water to the new Michelin facility.**

Subject to the City's General Objections, see the documents that are being produced with these responses which bear Bates numbers 05.06.14 000001 through 05.06.14 00035 that relate to Michelin's New Facility.

INTERROGATORIES

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1. **Please identify the dates and amounts of any expenditures claimed by the City in its counterclaim for damages. The response should also include a brief narrative describing the reason for the expenditure and the party receiving the payment.**

Subject to the City's General Objections, see the documents that are being produced with these responses which bear Bates numbers 04.24.14 000001 through 04.24.14 00056.

2. **Please identify the date the City first became aware Michelin was considering adding a new manufacturing facility within the boundaries of the District.**

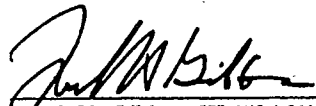
Subject to the City's General Objections and the further objection that Plaintiff's Interrogatory is vague and ambiguous, the City first became aware that Michelin was considering adding the New Facility within the City's service area on or about February 13, 2012.

3. Please describe with specificity the legal and factual basis underlying the City's Counterclaim for damages.

In the course of negotiations for purchase of Duke's wholesale and retail water systems and for the WSPA, Plaintiff West Anderson expressly represented to the City, without qualification, that the City could serve the Michelin Site. Plaintiff made the representations to induce the City to enter into the Asset Sale Agreement and the WSPA so as to permit formation of the ARJWS. Plaintiff confirmed and memorialized the representations that it made to the City when it entered into the WSPA. In reliance upon Plaintiff's representations and contractual commitments, the City incurred significant costs and expenses (a) in acquiring the necessary infrastructure to serve the Michelin Site from Duke Energy, (b) in purchasing potable water capacity to serve the Michelin Site from the Joint System, and (c) in upgrading the existing water system to serve the Michelin Site. Plaintiff will be unjustly enriched and the City will be damaged as a result of Plaintiff's actions and negligent misrepresentations should the Court deny the City the right to serve Michelin's New Facility and/or any other potable water user or facility located within the Michelin Site. For City's damages, see the documents that are being produced with these responses which bear Bates numbers 04.24.14 000001 through 04.24.14 00056.

REQUESTS TO ADMIT

1. The Michelin property is located within the boundaries of the District. Subject to the City's General Objections and the further objection that Plaintiff's Request to Admit is vague and ambiguous, denied. The Michelin Site is located within Plaintiff West Anderson's geographic boundaries but within the City's service area that is shown on the Territorial Map attached to the WSPA as Exhibit D.



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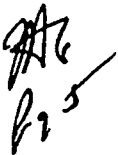
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Attorneys for City of Anderson, South Carolina

May 6, 2014

Spartanburg, South Carolina



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Keith Kelly

C.A. No. 2012-CP-04-02770

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SC Court of Appeals

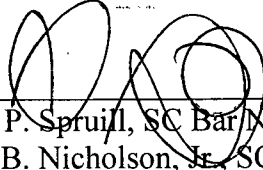
West Anderson Water District, ...Appellant,

v.

City of Anderson, South Carolina, ...Respondent.

CERTIFICATE OF APPELLANT

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material except as noted below. In the case of duplicate exhibits, only one copy has been included; however, both exhibit numbers (Plaintiff and Defendant) are indicated in the Index. In addition, the parties have agreed pursuant to Rule 212, SCACR to include page 55 of the transcript in the Record on Appeal.



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June 30, 2015

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
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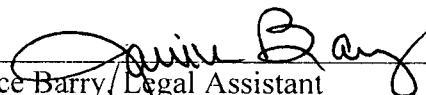
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City of Anderson, South Carolina, ...Respondent.

PROOF OF SERVICE

I certify that I have served the *Record on Appeal* on Respondent on June 30, 2015,
by mailing a copy of the same via United States Mail, postage prepaid, to the following:

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