

## CONSENT TO ASSIGNMENT

**THIS CONSENT TO ASSIGNMENT** (this “*Consent*”) dated as of \_\_\_\_\_, \_\_\_\_\_ is made and entered into by and among SOUTHERN COMPANY SERVICES, INC., a corporation duly organized and validly existing under the laws of the State of Alabama, as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (“*Southern*”), \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of the State of \_\_\_\_\_ (“*Assignor*”), and \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of the State of \_\_\_\_\_ (“*Assignee*”).

### RECITALS:

A. Southern and Assignor have entered into that certain \_\_\_\_\_ Agreement dated \_\_\_\_\_, \_\_\_\_\_ (as amended, modified or otherwise supplemented, the “*Assigned Agreement*”).

B. Assignor and Assignee have entered into a Purchase and Sale Agreement dated \_\_\_\_\_, \_\_\_\_\_ (as amended, modified or otherwise supplemented, the “*Purchase Agreement*”), pursuant to which Assignor has agreed to assign to Assignee and Assignee has agreed to assume the rights, title, interest and obligations of Assignor in, to and under the Assigned Agreement.

C. In connection with Assignor’s performance obligations under the Assigned Agreement, Assignor delivered to Southern (i) that certain Irrevocable Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_ issued by \_\_\_\_\_ for Assignor to Southern (the “*Existing Letter of Credit*”), and (ii) approximately \$\_\_\_\_\_ in cash collateral issued to Southern (the “*Cash Collateral*”; collectively with the Existing Letter of Credit, the “*Existing Credit Support*”).

D. Southern is willing to consent to such assignment and the termination and release of the Existing Credit Support and the replacement thereof by the Replacement Credit Support (as defined below) subject to the terms and conditions of this Consent.

### AGREEMENTS:

NOW, THEREFORE, in consideration of the recitals and the covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions.

As used herein, the following terms shall have the meanings herein specified unless the context otherwise requires:

“*Closing*” means the execution and delivery of this Consent by Assignor, Assignee and Southern, the execution and delivery of an application for transmission

service and the Amended and Restated Agreement (defined below) by Assignee to Southern and satisfaction of the Release Condition.

**“Government Action”** means all consents, approvals, waivers, exceptions, variances, orders, proceedings, exemptions, publications, filings (including but not limited to operational filings), notices to and declarations of or with any Governmental Body.

**“Governmental Body”** means any court, government (federal, state or local), department, political subdivision, commission, board, bureau, agency, official or other regulatory, administrative, or governmental authority, including but not limited to the Federal Energy Regulatory Commission (“**FERC**”), the Federal Trade Commission, the Securities and Exchange Commission and any state public service or public utility commission.

**“Person”** means any individual, corporation, company, voluntary association, partnership, joint venture, trust, unincorporated organization or Governmental Body.

**“Release Condition”** has the meaning set forth in Section 5 hereof.

**“Replacement Credit Support”** has the meaning set forth in Section 4 hereof.

2. Assignment. Effective upon Closing, Assignor assigns, transfers and conveys to Assignee all of its right, title and interest in, to and under the Assigned Agreement, and delegates to Assignee all of its now existing and hereafter arising duties and obligations under the Assigned Agreement.

3. Acceptance and Assumption. Upon and after the Closing, Assignee acknowledges and accepts the foregoing assignment and delegation and expressly assumes, confirms and agrees to pay and perform, comply with and observe all of the covenants, agreements, terms, conditions, obligations, duties and liabilities of Assignor under the Assigned Agreement as amended and restated by the Amended and Restated Agreement (the “**Agreement**”), regardless of when such covenants, agreements, terms, conditions, obligations, duties and liabilities accrued, arose, or were incurred (including, without limitation, any obligations arising after the Closing for conditions, events, actions or matters occurring, arising or existing before the Closing), together with all outstanding and future obligations of any kind whatsoever related thereto as and when due to be paid and performed. Assignor acknowledges that nothing in this Consent will, solely as between Assignor and Assignee, modify Assignee’s rights against Assignor under Section \_\_\_\_ of the Purchase Agreement. Upon and after the Closing, Assignee is and shall be bound by and shall enjoy the benefits of the Agreement, subject to the terms and conditions of this Consent.

4. Replacement of Credit Support. Subject to the terms hereof, for all purposes of the Agreement, Southern hereby consents to the replacement of the Existing Credit Support with: (i) a Guaranty Agreement or an appropriate amendment of any existing Guaranty Agreement from \_\_\_\_\_ in favor of Southern in form

and amount acceptable to Southern and (ii) a \$\_\_\_\_\_ letter of credit in favor of Southern in form and substance acceptable to Southern (the “**Replacement Credit Support**”). Simultaneously with the Closing, Assignee shall deliver to Southern the Replacement Credit Support, and, upon the Closing and Southern’s receipt and acceptance of the Replacement Credit Support, Southern will release and return to Assignor the Existing Credit Support.

5. Release, Etc. Assignor shall remain liable to Southern for the performance of all obligations under the Assigned Agreement; provided, however, when Assignee has delivered to Southern its Replacement Credit Support (the “**Release Condition**”) and the other Closing requirements have been satisfied, then Assignor (but not Assignee) shall be fully and unconditionally released from any and all obligations arising under the Assigned Agreement without any further action by any Person. Upon and after the Closing, Assignor shall have no rights under or in connection with the Assigned Agreement. At Closing, Assignee shall execute an Amended and Restated \_\_\_\_\_ Agreement (the “**Amended and Restated Agreement**”) in form and substance acceptable to Southern which shall amend, restate and replace the Assigned Agreement.

6. Ratification. All terms, representations, warranties and covenants of Transmission Customer and conditions and restrictions on Transmission Customer under the Agreement are hereby ratified, restated and confirmed by Assignee and shall be and remain in full force and effect in accordance with their terms as amended hereby. The Assignee acknowledges and agrees that the Agreement is enforceable against it as Transmission Customer in accordance with its terms as amended.

7. Expenses. Assignee shall pay on demand any and all reasonable out-of-pocket expenses incurred by Southern in connection with this Consent, including, without limitation, legal expenses. Without limiting the foregoing, Assignee also shall reimburse and hold harmless Southern for all costs, expenses and losses incurred by Southern in connection with any regulatory filing made or approval required or obtained in connection with this Consent or the Agreement.

8. Representations and Warranties of Assignee. Without limiting the foregoing, Assignee hereby represents and warrants that as of the Closing:

(a) Assignee is a \_\_\_\_\_ duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_.

(b) Assignee has the full \_\_\_\_\_ power, authority and right to execute and deliver this Consent and the Amended and Restated Agreement and perform its obligations hereunder and under the Agreement. The execution and delivery hereof and of the Amended and Restated Agreement and the performance by Assignee of this Consent and the Agreement and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary action. The Agreement

and this Consent constitute the legal, valid and binding obligations of Assignee enforceable against Assignee in accordance with their respective terms.

(c) The execution, delivery and performance by Assignee of this Consent and becoming obligated on and performing the Agreement do not and will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award having applicability to Assignee or by which its property may be bound, (ii) conflict with, result in a breach of or constitute a default under any provision of the certificate of incorporation, by-laws or other organizational or governing documents or any resolution of the board of directors (or similar body) of Assignee or any indenture or loan or credit agreement or any other agreement, lease or instrument to which Assignee is a party or by which Assignee or its properties and assets are bound or affected or (iii) result in, or require the creation or imposition of, any lien, charge, security interest or other encumbrance upon or with respect to any of the assets or properties of Assignee now owned or hereafter acquired. No breach or default under the Agreement by or attributable to Assignee has occurred or would exist with the passage of time or giving of notice, or both, as of the Closing.

(d) No Government Action is required for Assignee's execution, delivery or performance of this Consent or becoming obligated on and performing the Agreement.

9. Representations and Warranties of the Assignor. Assignor hereby represents and warrants that as of the Closing:

(a) Assignor is a \_\_\_\_\_ duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_.

(b) Assignor has the full \_\_\_\_\_ power, authority and right to execute, deliver and perform its obligations hereunder. The execution, delivery and performance by Assignor of this Consent and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action. This Consent constitutes the legal, valid and binding obligation of Assignor enforceable against Assignor in accordance with its terms.

(c) The execution, delivery and performance by Assignor of this Consent do not and will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award having applicability to Assignor or by which its property may be bound, (ii) conflict with, result in a breach of or constitute a default under any provision of the certificate of incorporation, by-laws or other organizational or governing documents or any resolution of the board of directors (or similar body) of Assignor or any indenture or loan or credit agreement or any other agreement, lease or instrument to which Assignor is a party or by which Assignor or its properties and assets are bound or affected or (iii) result in, or require the creation or imposition of, any lien, charge, security interest or other encumbrance upon or with respect to any of the assets or properties of Assignor now owned or hereafter acquired.

No breach or default under the Assigned Agreement by or attributable to Assignor has occurred or would exist with the passage of time or giving of notice, or both, prior to the Closing.

(d) No Government Action is required for the execution, delivery or performance of this Consent by Assignor.

10. Consent. By executing this Consent, Southern expressly agrees and consents to and acknowledges Assignor's assignment of the Assigned Agreement, pursuant and subject to the terms of this Consent. This consent is given without prejudice to Southern's rights under the Agreement, this consent being expressly limited to the assignment to and assumption by Assignee pursuant hereto and shall not be deemed to be the consent to or authorization for any further or other assignment of the Agreement. Nothing contained in this Consent shall be construed as modifying, waiving or affecting any of the provisions, covenants and conditions or any of Southern's rights or remedies under the Agreement other than as specifically set forth herein.

11. Amendments. This Consent may be amended or modified only by an instrument in writing signed by Southern, Assignor and Assignee. Any waiver shall be effective only for the specified purpose for which it is given.

12. Successors. This Consent shall be binding upon and inure to the benefit of the respective successors and permitted assigns of each of Southern, Assignor and Assignee; provided, however, that neither Assignor nor Assignee may assign or otherwise transfer its rights hereunder, without Southern's prior written consent.

13. Counterparts. This Consent may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument and any of the parties hereto may execute this Consent by signing any such counterpart; provided, this Consent shall not become effective prior to Southern having received counterpart(s) hereof signed by all of the intended parties hereto.

14. Severability. If any provision of this Consent shall be declared by any regulator or court of competent jurisdiction illegal, void or unenforceable (in whole or in part) for any reason, the remaining provisions of this Consent shall not be affected, but shall remain in full force and effect.

15. Headings. Headings appearing herein are used solely for convenience and are not intended to affect the interpretation of any provision of this Consent.

16. Governing Law. This Consent shall be governed by, and construed in accordance with applicable federal law and the laws of the State of Alabama.

17. FERC. Notwithstanding anything to the contrary contained or implied above, in the event FERC does not accept the Amended and Restated Agreement or requires material modifications to the same which would be of material adverse consequence to Southern, this Consent and the Amended and Restated Agreement shall,

upon written notice by Southern to Assignor and Assignee be deemed terminated and of no force or effect *ab initio* whereupon the Assigned Agreement and Assignor's obligations thereunder automatically shall be reinstated and Assignor will execute documents confirming the same and immediately provide collateral to Southern in replacement of the Existing Credit Support.

[The next page is the signature page.]

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IN WITNESS WHEREOF, this Consent has been duly executed by the parties hereto as of the date first above written.

SOUTHERN COMPANY SERVICES, INC.,  
as agent for Alabama Power Company, Georgia  
Power Company, Gulf Power Company and  
Mississippi Power Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_