



Dianne M. Triplett  
DEPUTY GENERAL COUNSEL

November 17, 2017

**VIA ELECTRONIC FILING**

Ms. Carlotta Stauffer, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Duke Energy Florida, LLC's Petition for approval of fuel cost proxy substitution to qualifying facility contracts between CFR/Biogen n/k/a Orange Cogeneration Limited Partners; Ridge Generating Station Limited Partnership; Mulberry Energy Company, Inc. n/k/a Polk Power Partners; Orlando Cogen Limited, L.P and Duke Energy Florida LLC.

Dear Ms. Stauffer:

Attached for filing on behalf of Duke Energy Florida, LLC ("DEF") is DEF's Petition for approval of fuel cost proxy substitution to qualifying facility contracts between CFR/Biogen n/k/a Orange Cogeneration Limited Partners; Ridge Generating Station Limited Partnership; Mulberry Energy Company, Inc. n/k/a Polk Power Partners; Orlando Cogen Limited, L.P. and Duke Energy Florida LLC.

Thank you for your assistance in this matter. Please feel free to call me at (727) 820-4692 should you have any questions concerning this filing.

Sincerely,

*/s/ Dianne M. Triplett*

Dianne M. Triplett  
Associate General Counsel

DMT/at  
Attachment

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of fuel cost proxy substitution to qualifying facility contracts between CFR/Biogen n/k/a Orange Cogeneration Limited Partners; Ridge Generating Station Limited Partnership; Mulberry Energy Company, Inc. n/k/a Polk Power Partners; Orlando Cogen Limited, L.P and Duke Energy Florida LLC.

Docket No. \_\_\_\_\_

Submitted for filing:  
November 17, 2017

**PETITION FOR APPROVAL OF FUEL COST PROXY  
SUBSTITUTION TO QUALIFYING FACILITY CONTRACTS**

Duke Energy Florida, LLC (“DEF” or “the Company”), pursuant to Rule 25-17.0836, F.A.C., hereby petitions the Florida Public Service Commission (“the Commission”) for approval of a substitution of fuel cost proxy to the qualifying facility contracts between CFR/Biogen n/k/a Orange Cogeneration Limited Partners; Ridge Generating Station Limited Partnership; Mulberry Energy Company, Inc. n/k/a Polk Power Partners; Orlando Cogen Limited, L.P. (collectively referred to as the “QFs”) and Duke Energy Florida LLC. In support of this petition, DEF states as follows:

1. Petitioner, DEF, is an investor-owned utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. The Company’s principal place of business is located at 299 First Avenue North, St. Petersburg, Florida 33701.

2. All notices, pleadings and other communications required to be served on petitioner should be directed to:

Dianne M. Triplett  
299 First Avenue North  
St. Petersburg, FL 33701  
(727) 820-4692

Matthew R. Bernier  
106 East College Avenue, Suite 800  
Tallahassee, FL 32301  
(850) 521-1428

3. DEF serves approximately 1.8 million retail customers in Florida. Its service area comprises approximately 20,000 square miles in 35 of the state's 67 counties, encompassing the densely populated areas of Pinellas and western Pasco Counties and the Greater Orlando area in Orange, Osceola, and Seminole Counties. DEF supplies electricity at retail to approximately 350 communities and at wholesale to Florida municipalities, utilities, and power agencies in the State of Florida.

4. In 1991, DEF entered into four negotiated power purchase agreements to purchase capacity and energy from the following Qualifying Facilities: CFR/Biogen n/k/a Orange Cogeneration Limited Partners; Ridge Generating Station Limited Partnership; Mulberry Energy Company, Inc. n/k/a Polk Power Partners; and Orlando Cogen Limited, L.P. The Commission approved these contracts (collectively referred to as the "QF PPAs") for cost recovery purposes in Order Nos. 24734 (Docket No. 910401-EQ), issued July 1, 1991, and PSC-92-0127-FOF-EQ (Docket No. 900383-EQ), issued March 31, 1992. The Ridge Generating Station Limited Partnership and Orlando Cogen Limited, L.P. contracts expire in December 2023. The Polk Power Partners contract expires in August 2024 and the Orange Cogeneration Limited Partners contract expires in December 2025.

5. Pursuant to the QF PPAs, DEF's coal-fired units, Crystal River 1 and Crystal River 2 ("CR 1 and 2"), comprise the avoided unit fuel reference plant that is used to calculate the energy payments for these QF facilities. This calculation includes the delivered price of coal burned at CR 1 and 2. DEF, however, currently plans to shut down and retire these coal units in 2018. Accordingly, upon the retirement of these units, the energy payments for these QF PPAs can no longer be calculated as originally called for in the QF PPAs. DEF and the owners of the QF facilities have negotiated an amendment to the QF PPAs to agree upon a substitute index, meant to approximate what the delivered fuel price would have been at CR 1 and 2. Each of the amendments utilizes the same substitute index and methodology. The substituted fuel cost proxy does not impact the overall efficiency, cost-effectiveness, or nature of the project. The QFs have been performing under these PPAs for more than 25 years, and will continue to do so pursuant to the other terms of the QF PPAs (which will not change). The amendment at issue is solely necessitated by a change of circumstances through no fault of either party, such that a substitution of terms (like for like) is required. Neither DEF nor the QFs are seeking a more advantageous price for the energy supplied to DEF – the parties selected a replacement index designed to mirror the original contract provision (i.e. delivered fuel to CR 1 and 2). The amended contract terms are designed to place the parties in the same position they have been operating under since the inception of the contract (i.e. prices based on the delivered cost of CR 1 and 2 coal). For ease of reference, these amendments will be referred to as "QF PPA Amendments," and are attached as Composite Exhibit A.

6. DEF requests approval of these amendments, similar to the amendment that the Commission approved for one of the contracts at issue here, in Order No. PSC-06-0993-PAA-

EQ (issued Nov. 30, 2006). In that order, the Commission approved a modification to add new language to the contract to clarify that a party will not be entitled to additional remuneration for errors discovered more than twelve months from the date payment is made. In approving the modification, the Commission noted that the proposed additional wording did not have an effect on the cost effectiveness of the contract. Likewise, with the QF PPA Amendments, the substitution of like for like terms will not impact the cost effectiveness of the contract, because they seek to place the parties in the same position in which they would have been, had the CR 1 and 2 units continued to operate.

WHEREFORE, DEF respectfully requests the Commission enter an order granting this petition and approving the QF PPA Amendments as stated herein.

Respectfully submitted,

*s/Dianne M. Triplett*

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Attorneys for DUKE ENERGY FLORIDA, LLC

EXHIBIT A

OF PPA Amendments

**FIRST AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF  
FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY**

**THIS FIRST AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY** (this “**Amendment**”) is entered into as of November 10, 2017 (“**Effective Date**”), by and between **RIDGE GENERATING STATION, L.P.**, a Florida corporation (“**QF**” or “**Seller**”), and **DUKE ENERGY FLORIDA, LLC** (“**Company**” or “**Buyer**”), and amends that certain Negotiated Contract For The Purchase Of Firms Capacity And Energy From A Qualifying Facility dated March 8, 1991 (as amended to date, the “**Agreement**”, including as amended by that certain Settlement Agreement and Amendment dated April 19, 1996 (“**Settlement**”). Initially capitalized terms used and not otherwise defined herein are defined in the Agreement. Seller and Buyer may each individually be referred to as a “**Party**” or collectively as the “**Parties.**” In the event of a conflict between the Settlement and this Amendment, this Amendment controls.

Notwithstanding anything to the contrary set forth herein, neither this Amendment nor any modification contemplated hereunder will be effective unless and until both parties have executed and delivered this Amendment, and this Amendment is further subject to the Conditions Precedent set forth below.

**WHEREAS**, Buyer plans to permanently retire the Crystal River 1 and Crystal River 2 coal plants in Florida; and

**WHEREAS**, together, Crystal River 1 and Crystal River 2 are the Avoided Unit Fuel Reference Plant used to calculate the “average monthly inventory charge out price” of Section 3(i) in the definition of Coal Price of the Settlement, and without this Amendment, after said permanent retirement, the Coal Price would no longer be calculable in the manner set forth in the Agreement;

**NOW THEREFORE**, in consideration of the promises, mutual covenants and conditions set forth herein in this Amendment, and for good and valuable consideration, the sufficiency of which is acknowledged, and intending to be bound hereby, the parties agree as follows:

1. **Conditions Precedent.** The Parties agree that the terms and conditions set forth in Section 2 below shall not be effective until Buyer has provided Seller written notice that both of the following have occurred: (a) Buyer has determined in its sole and absolute discretion that Crystal River 1 and Crystal River 2 have been permanently retired and (b) Buyer has received all regulatory approvals/acceptance or waivers that Buyer in its sole discretion determines are appropriate (collectively, the “**Conditions Precedent**”). Upon

the occurrence of the Conditions Precedent, the terms and conditions set forth in Section 2 will be automatically effective upon written notice to Seller.

2. **Amendment to Section 3 of the Settlement.** Section 3 of the Settlement is replaced in its entirety, subject to the satisfaction of the Conditions Precedent, with “the Fuel Cost”, which is made up of a coal cost and a coal transportation cost, as follows:

As of the Fuel Cost Start Date, the “Fuel Cost” shall mean the sum of the SNL Coal Price and the Transportation Cost in \$/MMBtu, rounded to three digits after the decimal point. For the purposes of this Section 3, the capitalized terms shall be defined and other terms and provisions shall apply as follows:

- a. The “**Avoided Unit Fuel Reference Plant Shutdown Date**” is the date, as determined and noticed by Buyer in its sole and absolute discretion, that Crystal River 1 and Crystal River 2, the Avoided Unit Fuel Reference Plants, have both been permanently retired.
- b. The “**Fuel Cost Start Date**” is the first month after the Avoided Unit Fuel Reference Plant Shutdown Date.
- c. “**SNL Coal Price**” is the unweighted monthly average of the weekly SNL Physical Market Survey Prompt Year coal price for NYMEX Big Sandy River Barge 12,000 Btu/lb heat content, 1.67% lb/MMBtu SO<sub>2</sub> content, in \$/ton published by SNL and converted to \$/MMBtu, rounded to three digits after the decimal point. Example: If the four weekly published Physical Market Survey Prompt Year coal prices for March are \$50/ton, \$50/ton, \$48/ton and \$52/ton. The monthly average is:  $(\$50+\$50+\$48+\$52)/4=\$50/\text{ton}$ . The conversion from \$/ton to \$/MMBtu is:  $\$50/\text{ton} * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.083/\text{MMBtu}$ .
- d. “**Transportation Cost**” is \$52/ton multiplied by the RCAF Index for the month of calculation, converted to \$/MMBtu, rounded to three digits after the decimal point, using a coal heat content of 12,000 Btu/lb. Example: If the RCAF Index for July 2021 is 0.975, the full calculation would be  $\$52/\text{ton} * 0.975 * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.113/\text{MMBtu}$ .
- e. The “**RCAF Index**” shall be determined as follows:



- i. **RCAF (Unadjusted)** is the Rail Cost Adjustment Factor prior to adjustment for productivity, but after forecast error adjustment. The RCAF (Unadjusted) is published during the last month of each quarter by the Association of American Railroads (AAR), after approval by the U.S. Surface Transportation Board, for use during the following quarter. For example, the RCAF (Unadjusted) for the second quarter of the year is published during March for use during April, May and June.

Quarter	Month Published	Months Included
1 <sup>st</sup>	December of Prior Year	January, February, March
2 <sup>nd</sup>	March	April, May, June
3 <sup>rd</sup>	June	July, August, September
4 <sup>th</sup>	September	October, November, December

- ii. **“Initial RCAF (Unadjusted)”** is the RCAF (Unadjusted) at the time of the Fuel Cost Start Date. For example: If the Fuel Cost Start Date is May, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018.
- iii. For any months including and between the Fuel Cost Start Date and the first month of the first whole calendar quarter that follows the calendar quarter containing the Fuel Cost Start Date, the Transportation Cost will be \$52 per ton. For example, if the Fuel Cost Start Date is in February 2018, the Transportation Cost will be \$52/ton for February and March 2018 and the Transportation Cost for April 2018 and the remaining months would be \$52/ton multiplied by the RCAF Index.
- iv. **RCAF Index** for a given month is the RCAF (Unadjusted) for the quarter containing the given month divided by the Initial RCAF (Unadjusted), rounded to three digits after the decimal point. For example, if the Fuel Cost Start Date is May 2018 and the given month is July 2021, the RCAF Index would be calculated as the RCAF (Unadjusted) for 3<sup>rd</sup> quarter of 2021 divided by the RCAF (Unadjusted) for 2<sup>nd</sup> quarter of 2018.
- v. The RCAF (Unadjusted) may be rebased by the AAR in its discretion from time to time in order to reset the value of the RCAF (Unadjusted) to 1.0 for the current quarter in accordance to the requirements of the Staggers Rail Act of 1980 (the “Staggers Act”). In that event, the RCAF (Unadjusted) for the quarter containing Fuel Cost Start Date as published quarterly by the AAR will become the Initial RCAF (Unadjusted) and will be used to

calculate the RCAF Index from that point forward unless and until the published value for the RCAF (Unadjusted) for the quarter containing the Fuel Cost Start Date is rebased and revised again due to the requirements of the Staggers Act. For example, if the Fuel Cost Start Date is May, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018. Looking at the most recent RCAF (Unadjusted) for the Fuel Cost Start Date published by the AAR, the Initial RCAF (Unadjusted) for May 2018 is 0.868. In December 2022 the RCAF (Unadjusted) values are rebased and revised per the Staggers Act and the published RCAF (Unadjusted) value for the 2<sup>nd</sup> Quarter of 2018 is changed to 0.854. As a result, the Initial RCAF (Unadjusted) is changed to 0.854, replacing the previous value of 0.868. The rebased value, 0.854, will be the Initial RCAF (Unadjusted) used to calculate the RCAF Index from that point forward unless and until the published value for the RCAF (Unadjusted) for the 2<sup>nd</sup> Quarter of 2018 is later rebased and revised per the requirements of the Staggers Act.


- f. If any of the data needed to calculate the Fuel Cost is no longer available from the same reports or sources during the term of the Agreement the Parties agree that:
    - i. if the same data is available from another report or source, to use the data from the new report or source.
    - ii. if the same data is not available from another report or source, to negotiate promptly and in good faith for a replacement for the data or calculation. The replacement Fuel Cost calculation should include a Central Appalachian coal price component and a Transportation Cost component. Preferably at least five years of historical data for these components must be available so that the original and replacement Fuel Cost values can be adequately compared. The goal is to match the historical results of the original and replacement Fuel Costs as closely as possible over the most recent 5-year period while taking into account any unusual market variations during that time. If there is no way to calculate the Fuel Cost during these negotiations, the Fuel Cost will remain the same as it was for the last month in which data was still available until the replacement is negotiated.
3. **No Further Amendment.** Except as herein amended, all terms and conditions of the Agreement are hereby reaffirmed and shall remain in full force and effect as previously written and shall be construed as one document with this Amendment. This Amendment does not extend the Term of the Agreement.

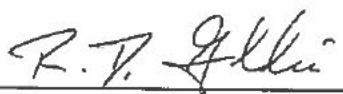
4. **Representations and Warranties.** Each party represents and warrants to the other that: (i) it has the capacity, authority and power to execute, deliver, and perform under this Amendment; (ii) this Amendment constitutes legal, valid and binding obligations enforceable against it; (iii) each person who executes this Amendment on its behalf has full and complete authority to do so; (iv) it is acting on its own behalf, has made its own independent decision to enter into this Amendment, has performed its own independent due diligence, is not relying upon the recommendations of any other party, and is capable of understanding, understands, and accepts the provisions of this Amendment; (v) it has completely read, fully understands, and voluntarily accepts every provision hereof; and (vi) it agrees that neither party shall have any provision hereof construed against such party by reason of such party drafting any provision of this document.
  
5. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which will be deemed an original but all of which together shall constitute one and the same agreement.


IN WITNESS THEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives and the Agreement reaffirmed as of the Amendment Date.

**DUKE ENERGY FLORIDA, LLC**

**RIDGE GENERATING STATION, L.P.**

By:   
 Name: Harry Sideris  
 Title: State President - FL  
 Date: 11/10/17

By:   
 Name: Reg Goldie  
 Title: VP, Energy Marketing + Trade  
 Date: 11/7/17

DUKE ENERGY, INC. LEGAL DEPARTMENT APPROVED BY: <u></u> DATE: <u>11/9/17</u>
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**SECOND AMENDMENT TO DISPATCHABLE CONTRACT FOR THE PURCHASE  
OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY**

**THIS SECOND AMENDMENT TO DISPATCHABLE CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY** (this “**Amendment**”) is entered into as of November 13, 2017 (“**Effective Date**”), by and between **ORANGE COGENERATION LIMITED PARTNERSHIP**, a Delaware limited partnership and successor to **CFR BIOGEN**, a Florida corporation (“**QF**” or “**Seller**”), and **DUKE ENERGY FLORIDA, LLC** (“**Company**” or “**Buyer**”), and amends that certain Dispatchable Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated November 19, 1991 (as amended to date, the “**Agreement**”, including as amended by that certain First Amendment to Dispatchable Contract for the Purchase of Firm Capacity and Energy dated effective as of January 17, 2007). Initially capitalized terms used and not otherwise defined herein are defined in the Agreement. Seller and Buyer may each individually be referred to as a “**Party**” or collectively as the “**Parties.**”

Notwithstanding anything to the contrary set forth herein, neither this Amendment nor any modification contemplated hereunder will be effective unless and until both Parties have executed and delivered this Amendment, and this Amendment is further subject to the Conditions Precedent set forth below.

**WHEREAS**, Buyer plans to permanently retire the Crystal River 1 and Crystal River 2 coal plants in Florida; and

**WHEREAS**, together, Crystal River 1 and Crystal River 2 are the Avoided Unit Fuel Reference Plant used to calculate the energy payments pursuant to Section 9.1.2 of the Agreement, and without this Amendment, after said permanent retirement, the “average monthly inventory chargeout price of fuel burned at the Avoided Unit Fuel Reference Plant” portion of the energy payments and Firm Energy Cost calculation in Section 9.1.2(i) of the Agreement would no longer be calculable in the manner set forth in the Agreement;

**NOW THEREFORE**, in consideration of the promises, mutual covenants and conditions set forth herein in this Amendment, and for good and valuable consideration, the sufficiency of which is acknowledged, and intending to be bound hereby, the Parties agree as follows:

- 1. Conditions Precedent.** Buyer shall promptly provide Seller written notice once both of the following have occurred: (a) Buyer has determined in its sole and absolute discretion that Crystal River 1 and Crystal River 2 have been permanently retired and (b) Buyer has received all regulatory approvals/acceptance or waivers from the Florida Public

Service Commission that Buyer in its sole discretion determines are appropriate for this Amendment (collectively, the “**Conditions Precedent**”). The Parties agree that the terms and conditions set forth in Section 2 below shall not be effective until Buyer has provided Seller with such written notice that both of the Conditions Precedent have been satisfied. Upon the occurrence of the Conditions Precedent, the terms and conditions set forth in Section 2 will be automatically effective without further notice.

2. **Amendment to Section 9.1.2(i) of the Agreement.** As of the Fuel Cost Start Date (as herein defined) the phrase “average monthly inventory chargeout price of fuel burned at the Avoided Unit Reference Plant” in Section 9.1.2(i) of the Agreement is replaced, subject to the satisfaction of the Conditions Precedent, with the term “Fuel Cost”, which is defined herein and made up of a coal cost and a coal transportation cost, as follows:
  - a. The “**Avoided Unit Fuel Reference Plant Shutdown Date**” is the date, as determined and noticed by Buyer in connection with Section 1(a) of this Amendment, that Crystal River 1 and Crystal River 2, the Avoided Unit Fuel Reference Plants, have both been permanently retired.
  - b. The “**Fuel Cost Start Date**” is the first day of the first month after the Avoided Unit Fuel Reference Plant Shutdown Date.
  - c. The “**Fuel Cost**” is the sum of the SNL Coal Price and the Transportation Cost in \$/MMBtu, rounded to three digits after the decimal point.
  - d. “**SNL Coal Price**” is the unweighted monthly average of the weekly SNL Physical Market Survey Prompt Year coal price for NYMEX Big Sandy (12,000 Btu/lb heat content, 1.67 lb/MMBtu SO<sub>2</sub> content, barge transport) in \$/ton published by SNL and converted to \$/MMBtu, rounded to three digits after the decimal point. Example: If the month of March has four weekly published Physical Market Survey Prompt Year coal prices (note that there may be more or less than four such published prices during a given month) and the published prices are \$50/ton, \$50/ton, \$48/ton and \$52/ton, then the monthly average for March will be the sum of the published prices divided by the number of prices published during the month:  $(\$50+\$50+\$48+\$52)/4 = \$50/\text{ton}$ . The conversion from \$/ton to \$/MMBtu is:  $\$50/\text{ton} * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.083/\text{MMBtu}$ .
  - e. “**Transportation Cost**” is \$52/ton multiplied by the RCAF Index for the month of calculation, as herein provided, converted to \$/MMBtu, rounded to three digits after the decimal point, using a coal heat content of 12,000 Btu/lb. Example: If the

RCAF Index for July 2021 is: 0.975, the calculation of the July 2021 Transportation Cost would be  $\$52/\text{ton} * 0.975 * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.113/\text{MMBtu}$ .

f. The “**RCAF Index**” shall be determined as follows:

i. **RCAF (Unadjusted)** is the Rail Cost Adjustment Factor prior to adjustment for productivity, but after forecast error adjustment. The RCAF (Unadjusted) is published during the last month of each quarter by the Association of American Railroads (AAR), after approval by the U.S. Surface Transportation Board, for use during the following quarter. For example, the RCAF (Unadjusted) for the second quarter of the year is published during March for use during April, May and June.

Quarter	Month Published	Months Included
1 <sup>st</sup>	December of Prior Year	January, February, March
2 <sup>nd</sup>	March	April, May, June
3 <sup>rd</sup>	June	July, August, September
4 <sup>th</sup>	September	October, November, December

ii. “**Initial RCAF (Unadjusted)**” is the RCAF (Unadjusted) at the time of the Fuel Cost Start Date. For example: If the Fuel Cost Start Date is May 1, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018.

iii. For any months including and between the Fuel Cost Start Date and the first month of the first whole calendar quarter that follows the calendar quarter containing the Fuel Cost Start Date, the Transportation Cost will be \$52 per ton. For example, if the Fuel Cost Start Date is in February 2018, the Transportation Cost will be \$52/ton for February and March 2018, and the Transportation Cost for April 2018 and for each month thereafter, would be \$52/ton multiplied by the RCAF Index for the quarter containing the given month.

iv. **RCAF Index** for a given month is the RCAF (Unadjusted) for the quarter containing the given month divided by the Initial RCAF (Unadjusted), rounded to three digits after the decimal point. For example, if the Fuel Cost Start Date is May 1, 2018 and the given month is July 2021, the

RCAF Index would be calculated as the RCAF (Unadjusted) for 3<sup>rd</sup> quarter of 2021 divided by the RCAF (Unadjusted) for 2<sup>nd</sup> quarter of 2018.

- v. The RCAF (Unadjusted) may be rebased and revised by the AAR in its discretion from time to time in order to reset the value of the RCAF (Unadjusted) to 1.0 for the current quarter in accordance to the requirements of the Staggers Rail Act of 1980 (the “**Staggers Act**”). In that event, the RCAF (Unadjusted) for the quarter containing Fuel Cost Start Date as published quarterly by the AAR will become the Initial RCAF (Unadjusted) and will be used to calculate the RCAF Index from that point forward unless and until the published value for the RCAF (Unadjusted) for the quarter containing the Fuel Cost Start Date is rebased and revised again due to the requirements of the Staggers Act. For example, if the Fuel Cost Start Date is May, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018. Looking at the most recent RCAF (Unadjusted) for the Fuel Cost Start Date published by the AAR, the Initial RCAF (Unadjusted) for May 2018 is 0.868. In December 2022 the RCAF (Unadjusted) values are rebased and revised per the Staggers Act and the published RCAF (Unadjusted) value for the 2<sup>nd</sup> Quarter of 2018 is changed to 0.854. As a result, the Initial RCAF (Unadjusted) is changed to 0.854, replacing the previous value of 0.868. The rebased value, 0.854, will thereafter be the Initial RCAF (Unadjusted) used to calculate the RCAF Index, unless and until the published value for the RCAF (Unadjusted) for the 2<sup>nd</sup> Quarter of 2018 is later rebased and revised per the requirements of the Staggers Act.
  
- g. If any of the data needed to calculate the Fuel Cost is no longer available from the same reports or sources during the term of the Agreement the Parties agree that:
  - i. if the same data is available from another report or source, to use the data from the new report or source.
  
  - ii. if the same data is not available from another report or source, to negotiate promptly and in good faith for a replacement for the data or calculation. The replacement Fuel Cost calculation should include a Central Appalachian coal price component and a Transportation Cost component. Preferably at least five years of historical data for these components must be available so that the original and replacement Fuel Cost values can be adequately compared. The goal is to match the historical results of the original and replacement Fuel Costs as closely as

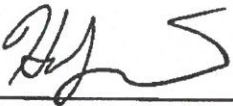
possible over the most recent 5-year period while taking into account any unusual market variations during that time. If there is no way to calculate the Fuel Cost during these negotiations, the Fuel Cost will remain the same as it was for the last month in which data was still available until the replacement is negotiated.

- h. From and after the Fuel Cost Start Date all references in the Agreement to the term "Avoided Unit Fuel Reference Plant," to the extent having been previously used to calculate the "average monthly inventory chargeout price of fuel burned at the Avoided Unit Fuel Reference Plant" shall be of no further force and effect, in order to give effect to the Fuel Cost calculations herein.
- 3. No Further Amendment.** Except as herein amended, all terms and conditions of the Agreement are hereby ratified and reaffirmed and shall remain in full force and effect as previously written and shall be construed as one document with this Amendment. This Amendment does not extend the Term of the Agreement.
- 4. Representations and Warranties.** Each Party respectively represents and warrants to the other that: (i) it has the capacity, authority and power to execute, deliver, and perform under this Amendment; (ii) this Amendment constitutes legal, valid and binding obligations enforceable against it; (iii) each person who executes this Amendment on its behalf has full and complete authority to do so; (iv) it is acting on its own behalf, has made its own independent decision to enter into this Amendment, has performed its own independent due diligence, is not relying upon the recommendations of any other Party, and is capable of understanding, understands, and accepts the provisions of this Amendment; (v) it has completely read, fully understands, and voluntarily accepts every provision hereof; and (vi) it agrees that neither Party shall have any provision hereof construed against such Party by reason of such Party drafting any provision of this Amendment.
- 5. Counterparts.** This Amendment may be executed in one or more counterparts, each of which will be deemed an original but all of which together shall constitute one and the same instrument.


**IN WITNESS THEREOF**, the Parties have caused this Amendment to be executed by their duly authorized representatives on the date(s) of their respective signatures below, to be effective however, subject to the Conditions Precedent herein, as of the Effective Date.




**Duke Energy Florida, LLC**

By:   
Name: Harry Sideris  
Title: State President - FL  
Date: November 10, 2017

**Orange Cogeneration Limited Partnership**  
By: Orange Cogeneration G.P., Inc., as its  
Managing General Partner

By:   
Name: David M. Sims  
Title: General Manager  
Date: November 13, 2017

DUKE ENERGY, INC.  
LEGAL DEPARTMENT  
APPROVED BY:   
DATE: 11/7/17

**SECOND AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF  
FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY**

**THIS SECOND AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY** (this “**Amendment**”) is entered into as of November 13, 2017 (“**Effective Date**”), by and between **ORLANDO COGEN LIMITED, L.P.**, a Delaware limited partnership (“**QF**” or “**Seller**”), and **DUKE ENERGY FLORIDA, LLC** (“**Company**” or “**Buyer**”), and amends that certain Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated March 13, 1991 (as amended to date, the “**Agreement**”, including as amended by that certain Settlement Agreement and Amendment dated February 3, 1996 (“**Settlement**”). Initially capitalized terms used and not otherwise defined herein are defined in the Agreement. Seller and Buyer may each individually be referred to as a “**Party**” or collectively as the “**Parties.**” In the event of a conflict between the Settlement and this Amendment, this Amendment controls.

Notwithstanding anything to the contrary set forth herein, neither this Amendment nor any modification contemplated hereunder will be effective unless and until both Parties have executed and delivered this Amendment, and this Amendment is further subject to the Conditions Precedent set forth below.

**WHEREAS**, Buyer plans to permanently retire the Crystal River 1 and Crystal River 2 coal plants in Florida; and

**WHEREAS**, together, Crystal River 1 and Crystal River 2 are the Avoided Unit Fuel Reference Plant used to calculate the “average monthly inventory charge out price” of Section 1(g)(i) in the definition of Coal Price of the Settlement, and without this Amendment, after said permanent retirement, the Coal Price would no longer be calculable in the manner set forth in the Agreement;

**NOW THEREFORE**, in consideration of the promises, mutual covenants and conditions set forth herein in this Amendment, and for good and valuable consideration, the sufficiency of which is acknowledged, and intending to be bound hereby, the Parties agree as follows:

- 1. Conditions Precedent.** Buyer shall promptly provide Seller written notice once both of the following have occurred: (a) Buyer has determined in its sole and absolute discretion that Crystal River 1 and Crystal River 2 have been permanently retired and (b) Buyer has received all regulatory approvals/acceptance or waivers from the Florida Public Service Commission that Buyer in its sole discretion determines are

appropriate for this Amendment (collectively, the “**Conditions Precedent**”). The Parties agree that the terms and conditions set forth in Section 2 below shall not be effective until Buyer has provided Seller with such written notice that both of the Conditions Precedent have been satisfied. Upon the occurrence of the Conditions Precedent, the terms and conditions set forth in Section 2 will be automatically effective without further notice.

2. **Amendments to Section 1(g) of the Settlement.** As of the Fuel Cost Start Date (as herein defined), the phrase “monthly inventory charge out price of coal burned at the Avoided Unit Fuel Reference Plant” in Section 1(g)(i) and the phrase “Avoided Unit Fuel Reference Plant” in the “Provided, however” provision after Section 1(g)(ii) of the Settlement, is replaced with the term “Fuel Cost”, which is defined herein and made up of a coal cost and a coal transportation cost, as follows:
  - a. The “**Avoided Unit Fuel Reference Plant Shutdown Date**” is the date, as determined and noticed by Buyer in connection with Section 1(a) of this Amendment, that Crystal River 1 and Crystal River 2, the Avoided Unit Fuel Reference Plants, have both been permanently retired.
  - b. The “**Fuel Cost Start Date**” is the first day of the first month after the Avoided Unit Fuel Reference Plant Shutdown Date.
  - c. The “**Fuel Cost**” is the sum of the SNL Coal Price and the Transportation Cost in \$/MMBtu, rounded to three digits after the decimal point.
  - d. “**SNL Coal Price**” is the unweighted monthly average of the weekly SNL Physical Market Survey Prompt Year coal price for NYMEX Big Sandy (12,000 Btu/lb heat content, 1.67 lb/MMBtu SO<sub>2</sub> content, barge transport) in \$/ton published by SNL and converted to \$/MMBtu, rounded to three digits after the decimal point. Example: If the month of March has four weekly published Physical Market Survey Prompt Year coal prices (note that there may be more or less than four such published prices during a given month) and the published prices are \$50/ton, \$50/ton, \$48/ton and \$52/ton, then the monthly average for March will be the sum of the published prices divided by the number of prices published during the month:  $(\$50+\$50+\$48+\$52)/4 = \$50/\text{ton}$ . The conversion from \$/ton to \$/MMBtu is:  $\$50/\text{ton} * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.083/\text{MMBtu}$ .
  - e. “**Transportation Cost**” is \$52/ton multiplied by the RCAF Index for the month of calculation, as herein provided, converted to \$/MMBtu, rounded to three digits

after the decimal point, using a coal heat content of 12,000 Btu/lb. Example: If the RCAF Index for July 2021 is 0.975, the calculation of the July 2021 Transportation Cost would be:  $\$52/\text{ton} \times 0.975 \times 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} \times 2,000 \text{ lb/ton}) = \$2.113/\text{MMBtu}$ .

f. The “RCAF Index” shall be determined as follows:

- i. **RCAF (Unadjusted)** is the Rail Cost Adjustment Factor prior to adjustment for productivity, but after forecast error adjustment. The RCAF (Unadjusted) is published during the last month of each quarter by the Association of American Railroads (AAR), after approval by the U.S. Surface Transportation Board, for use during the following quarter. For example, the RCAF (Unadjusted) for the second quarter of the year is published during March for use during April, May and June.

Quarter	Month Published	Months Included
1 <sup>st</sup>	December of Prior Year	January, February, March
2 <sup>nd</sup>	March	April, May, June
3 <sup>rd</sup>	June	July, August, September
4 <sup>th</sup>	September	October, November, December

- ii. “**Initial RCAF (Unadjusted)**” is the RCAF (Unadjusted) at the time of the Fuel Cost Start Date. For example: If the Fuel Cost Start Date is May 1, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018.
- iii. For any months including and between the Fuel Cost Start Date and the first month of the first whole calendar quarter that follows the calendar quarter containing the Fuel Cost Start Date, the Transportation Cost will be \$52 per ton. For example, if the Fuel Cost Start Date is in February 2018, the Transportation Cost will be \$52/ton for February and March 2018, and the Transportation Cost for April 2018 and for each month thereafter, would be \$52/ton multiplied by the RCAF Index for the quarter containing the given month.
- iv. **RCAF Index** for a given month is the RCAF (Unadjusted) for the quarter containing the given month divided by the Initial RCAF (Unadjusted), rounded to three digits after the decimal point. For example, if the Fuel Cost Start Date is May 1, 2018 and the given month is July 2021, the

RCAF Index would be calculated as the RCAF (Unadjusted) for 3<sup>rd</sup> quarter of 2021 divided by the RCAF (Unadjusted) for 2<sup>nd</sup> quarter of 2018.

- v. The RCAF (Unadjusted) may be rebased and revised by the AAR in its discretion from time to time in order to reset the value of the RCAF (Unadjusted) to 1.0 for the current quarter in accordance to the requirements of the Staggers Rail Act of 1980 (the “**Staggers Act**”). In that event, the RCAF (Unadjusted) for the quarter containing Fuel Cost Start Date as published quarterly by the AAR will become the Initial RCAF (Unadjusted) and will be used to calculate the RCAF Index from that point forward unless and until the published value for the RCAF (Unadjusted) for the quarter containing the Fuel Cost Start Date is rebased and revised again due to the requirements of the Staggers Act. For example, if the Fuel Cost Start Date is May, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018. Looking at the most recent RCAF (Unadjusted) for the Fuel Cost Start Date published by the AAR, the Initial RCAF (Unadjusted) for May 2018 is 0.868. In December 2022 the RCAF (Unadjusted) values are rebased and revised per the Staggers Act and the published RCAF (Unadjusted) value for the 2<sup>nd</sup> Quarter of 2018 is changed to 0.854. As a result, the Initial RCAF (Unadjusted) is changed to 0.854, replacing the previous value of 0.868. The rebased value, 0.854, will thereafter be the Initial RCAF (Unadjusted) used to calculate the RCAF Index, unless and until the published value for the RCAF (Unadjusted) for the 2<sup>nd</sup> Quarter of 2018 is later rebased and revised per the requirements of the Staggers Act.
- g. If any of the data needed to calculate the Fuel Cost is no longer available from the same reports or sources during the term of the Agreement the Parties agree that:
  - i. if the same data is available from another report or source, to use the data from the new report or source.
  - ii. if the same data is not available from another report or source, to negotiate promptly and in good faith for a replacement for the data or calculation. The replacement Fuel Cost calculation should include a Central Appalachian coal price component and a Transportation Cost component. Preferably at least five years of historical data for these components must be available so that the original and replacement Fuel Cost values can be adequately compared. The goal is to match the historical results of the original and replacement Fuel Costs as closely as

possible over the most recent 5-year period while taking into account any unusual market variations during that time. If there is no way to calculate the Fuel Cost during these negotiations, the Fuel Cost will remain the same as it was for the last month in which data was still available until the replacement is negotiated.

- h. From and after the Fuel Cost Start Date all references in the Agreement to the term "Avoided Unit Fuel Reference Plant," to the extent having been previously used to calculate the "average monthly inventory charge out price of coal burned at the Avoided Unit Fuel Reference Plant" shall be of no further force and effect, in order to give effect to the Fuel Cost calculations herein. Notwithstanding the foregoing, in calculating the three month rolling average Fuel Cost under Section 1(g)(i) of the Settlement (as herein amended) for the first two months after the Fuel Cost Start Date, the three month rolling average shall continue to be based, in part, on the "average monthly inventory charge out price of coal burned at the Avoided Unit Fuel Reference Plant" (the "**Average Monthly Chargeout Price**"). For example, if the Fuel Cost Start Date is March 1, 2018, then the Average Monthly Chargeout Price for the two (2) prior months (January and February 2018) and the Fuel Cost for March 2018 will be used to calculate the three month rolling average. Similarly (using this example), the three month rolling average for April, 2018 would be calculated using the March and April 2018 Fuel Costs and the February 2018 Average Monthly Chargeout Price. Commencing on the third month after the Fuel Cost Start Date, the Average Monthly Chargeout Price shall no longer be used to calculate the three month rolling average.
3. **No Further Amendment.** Except as herein amended, all terms and conditions of the Agreement are hereby ratified and reaffirmed and shall remain in full force and effect as previously written and shall be construed as one document with this Amendment. This Amendment does not extend the Term of the Agreement.
4. **Representations and Warranties.** Each Party respectively represents and warrants to the other that: (i) it has the capacity, authority and power to execute, deliver, and perform under this Amendment; (ii) this Amendment constitutes legal, valid and binding obligations enforceable against it; (iii) each person who executes this Amendment on its behalf has full and complete authority to do so; (iv) it is acting on its own behalf, has made its own independent decision to enter into this Amendment, has performed its own independent due diligence, is not relying upon the recommendations of any other Party, and is capable of understanding, understands, and accepts the provisions of this Amendment; (v) it has completely read, fully understands, and voluntarily accepts every provision hereof; and (vi) it agrees that

neither Party shall have any provision hereof construed against such Party by reason of such Party drafting any provision of this Amendment.


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


**IN WITNESS THEREOF**, the Parties have caused this Amendment to be executed by their duly authorized representatives on the date(s) of their respective signatures below, to be effective however, subject to the Conditions Precedent herein, as of the Effective Date.

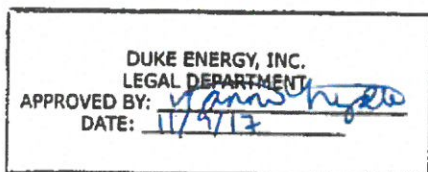
**Duke Energy Florida, LLC**

**Orlando CoGen Limited, L.P.**

By: Orlando CoGen (I), Inc., as its Managing  
General Partner

By:   
Name: Harry Sideris  
Title: State President - FL  
Date: November 10, 2017

By:   
Name: David M. Sims  
Title: General Manager  
Date: November 13, 2017



**SECOND AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF  
FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY**

**THIS SECOND AMENDMENT TO NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY** (this “**Amendment**”) is entered into as of November 13, 2017 (“**Effective Date**”), by and between **POLK POWER PARTNERS, L.P.**, a Delaware limited Partnership and successor to **MULBERRY ENERGY COMPANY**, a corporation (“**QF**” or “**Seller**”), and **DUKE ENERGY FLORIDA, LLC** (“**Company**” or “**Buyer**”), and amends that certain Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated March 12, 1991 (as amended to date, the “**Agreement**”, including as amended by that certain First Amendment to Negotiated Contract for the Purchase of Firm Capacity and Energy dated effective as of January 17, 2007). Initially capitalized terms used and not otherwise defined herein are defined in the Agreement. Seller and Buyer may each individually be referred to as a “**Party**” or collectively as the “**Parties.**”

Notwithstanding anything to the contrary set forth herein, neither this Amendment nor any modification contemplated hereunder will be effective unless and until both Parties have executed and delivered this Amendment, and this Amendment is further subject to the Conditions Precedent set forth below.

**WHEREAS**, Buyer plans to permanently retire the Crystal River 1 and Crystal River 2 coal plants in Florida; and

**WHEREAS**, together, Crystal River 1 and Crystal River 2 are the Avoided Unit Fuel Reference Plant used to calculate the energy payments pursuant to Section 9.1.2 of the Agreement, and without this Amendment, after said permanent retirement, the “average monthly inventory chargeout price of fuel burned at the Avoided Unit Fuel Reference Plant” portion of the energy payments and Firm Energy Cost calculation in Section 9.1.2(i) of the Agreement would no longer be calculable in the manner set forth in the Agreement;

**NOW THEREFORE**, in consideration of the promises, mutual covenants and conditions set forth herein in this Amendment, and for good and valuable consideration, the sufficiency of which is acknowledged, and intending to be bound hereby, the Parties agree as follows:

- 1. Conditions Precedent.** Buyer shall promptly provide Seller written notice once both of the following have occurred: (a) Buyer has determined in its sole and absolute discretion that Crystal River 1 and Crystal River 2 have been permanently retired and (b) Buyer has received all regulatory approvals/acceptance or waivers from the Florida Public



Service Commission that Buyer in its sole discretion determines are appropriate for this Amendment (collectively, the “**Conditions Precedent**”). The Parties agree that the terms and conditions set forth in Section 2 below shall not be effective until Buyer has provided Seller with such written notice that both of the Conditions Precedent have been satisfied. Upon the occurrence of the Conditions Precedent, the terms and conditions set forth in Section 2 will be automatically effective without further notice.

2. **Amendment to Section 9.1.2(i) of the Agreement.** As of the Fuel Cost Start Date (as herein defined), the phrase “average monthly inventory chargeout price of fuel burned at the Avoided Unit Reference Plant” in Section 9.1.2(i) of the Agreement is replaced, subject to the satisfaction of the Conditions Precedent, with the term “Fuel Cost”, which is defined herein and made up of a coal cost and a coal transportation cost, as follows:
  - a. The “**Avoided Unit Fuel Reference Plant Shutdown Date**” is the date, as determined and noticed by Buyer in connection with Section 1(a) of this Amendment, that Crystal River 1 and Crystal River 2, the Avoided Unit Fuel Reference Plants, have both been permanently retired.
  - b. The “**Fuel Cost Start Date**” is the first day of the first month after the Avoided Unit Fuel Reference Plant Shutdown Date.
  - c. The “**Fuel Cost**” is the sum of the SNL Coal Price and the Transportation Cost in \$/MMBtu, rounded to three digits after the decimal point.
  - d. “**SNL Coal Price**” is the unweighted monthly average of the weekly SNL Physical Market Survey Prompt Year coal price for NYMEX Big Sandy (12,000 Btu/lb heat content, 1.67 lb/MMBtu SO<sub>2</sub> content, barge transport) in \$/ton published by SNL and converted to \$/MMBtu, rounded to three digits after the decimal point. Example: If the month of March has four weekly published Physical Market Survey Prompt Year coal prices (note that there may be more or less than four such published prices during a given month) and the published prices are \$50/ton, \$50/ton, \$48/ton and \$52/ton, then the monthly average for March will be the sum of the published prices divided by the number of prices published during the month:  $(\$50+\$50+\$48+\$52)/4=\$50/\text{ton}$ . The conversion from \$/ton to \$/MMBtu is:  $\$50/\text{ton} * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.083/\text{MMBtu}$ .
  - e. “**Transportation Cost**” is \$52/ton multiplied by the RCAF Index for the month of calculation, as herein provided, converted to \$/MMBtu, rounded to three digits after the decimal point, using a coal heat content of 12,000 Btu/lb. Example: If the

RCAF Index for July 2021 is: 0.975, the calculation of the July 2021 Transportation Cost would be  $\$52/\text{ton} * 0.975 * 1,000,000 \text{ Btu/MMBtu} / (12,000 \text{ Btu/lb} * 2,000 \text{ lb/ton}) = \$2.113/\text{MMBtu}$ .

- f. The “RCAF Index” shall be determined as follows:
- i. **RCAF (Unadjusted)** is the Rail Cost Adjustment Factor prior to adjustment for productivity, but after forecast error adjustment. The RCAF (Unadjusted) is published during the last month of each quarter by the Association of American Railroads (AAR), after approval by the U.S. Surface Transportation Board, for use during the following quarter. For example, the RCAF (Unadjusted) for the second quarter of the year is published during March for use during April, May and June.

Quarter	Month Published	Months Included
1 <sup>st</sup>	December of Prior Year	January, February, March
2 <sup>nd</sup>	March	April, May, June
3 <sup>rd</sup>	June	July, August, September
4 <sup>th</sup>	September	October, November, December

- ii. “**Initial RCAF (Unadjusted)**” is the RCAF (Unadjusted) at the time of the Fuel Cost Start Date. For example: If the Fuel Cost Start Date is May 1, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018.
- iii. For any months including and between the Fuel Cost Start Date and the first month of the first whole calendar quarter that follows the calendar quarter containing the Fuel Cost Start Date, the Transportation Cost will be \$52 per ton. For example, if the Fuel Cost Start Date is in February 2018, the Transportation Cost will be \$52/ton for February and March 2018, and the Transportation Cost for April 2018 and for each month thereafter, would be \$52/ton multiplied by the RCAF Index for the quarter containing the given month.
- iv. **RCAF Index** for a given month is the RCAF (Unadjusted) for the quarter containing the given month divided by the Initial RCAF (Unadjusted), rounded to three digits after the decimal point. For example, if the Fuel Cost Start Date is May 1, 2018 and the given month is July 2021, the

RCAF Index would be calculated as the RCAF (Unadjusted) for 3<sup>rd</sup> quarter of 2021 divided by the RCAF (Unadjusted) for 2<sup>nd</sup> quarter of 2018.

- v. The RCAF (Unadjusted) may be rebased and revised by the AAR in its discretion from time to time in order to reset the value of the RCAF (Unadjusted) to 1.0 for the current quarter in accordance to the requirements of the Staggers Rail Act of 1980 (the “Staggers Act”). In that event, the RCAF (Unadjusted) for the quarter containing Fuel Cost Start Date as published quarterly by the AAR will become the Initial RCAF (Unadjusted) and will be used to calculate the RCAF Index from that point forward unless and until the published value for the RCAF (Unadjusted) for the quarter containing the Fuel Cost Start Date is rebased and revised again due to the requirements of the Staggers Act. For example, if the Fuel Cost Start Date is May, 2018, the Initial RCAF (Unadjusted) would be the 2<sup>nd</sup> Quarter RCAF (Unadjusted) value for 2018. Looking at the most recent RCAF (Unadjusted) for the Fuel Cost Start Date published by the AAR, the Initial RCAF (Unadjusted) for May 2018 is 0.868. In December 2022 the RCAF (Unadjusted) values are rebased and revised per the Staggers Act and the published RCAF (Unadjusted) value for the 2<sup>nd</sup> Quarter of 2018 is changed to 0.854. As a result, the Initial RCAF (Unadjusted) is changed to 0.854, replacing the previous value of 0.868. The rebased value, 0.854, will thereafter be the Initial RCAF (Unadjusted) used to calculate the RCAF Index, unless and until the published value for the RCAF (Unadjusted) for the 2<sup>nd</sup> Quarter of 2018 is later rebased and revised per the requirements of the Staggers Act.
  
- g. If any of the data needed to calculate the Fuel Cost is no longer available from the same reports or sources during the term of the Agreement the Parties agree that:
  - i. if the same data is available from another report or source, to use the data from the new report or source.
  
  - ii. if the same data is not available from another report or source, to negotiate promptly and in good faith for a replacement for the data or calculation. The replacement Fuel Cost calculation should include a Central Appalachian coal price component and a Transportation Cost component. Preferably at least five years of historical data for these components must be available so that the original and replacement Fuel Cost values can be adequately compared. The goal is to match the historical results of the original and replacement Fuel Costs as closely as

possible over the most recent 5-year period while taking into account any unusual market variations during that time. If there is no way to calculate the Fuel Cost during these negotiations, the Fuel Cost will remain the same as it was for the last month in which data was still available until the replacement is negotiated.

- h. From and after the Fuel Cost Start Date all references in the Agreement to the term "Avoided Unit Fuel Reference Plant," to the extent having been previously used to calculate the "average monthly inventory chargeout price of fuel burned at the Avoided Unit Fuel Reference Plant" shall be of no further force and effect, in order to give effect to the Fuel Cost calculations herein.
- 3. **No Further Amendment.** Except as herein amended, all terms and conditions of the Agreement are hereby ratified and reaffirmed and shall remain in full force and effect as previously written and shall be construed as one document with this Amendment. This Amendment does not extend the Term of the Agreement.
- 4. **Representations and Warranties.** Each Party respectively represents and warrants to the other that: (i) it has the capacity, authority and power to execute, deliver, and perform under this Amendment; (ii) this Amendment constitutes legal, valid and binding obligations enforceable against it; (iii) each person who executes this Amendment on its behalf has full and complete authority to do so; (iv) it is acting on its own behalf, has made its own independent decision to enter into this Amendment, has performed its own independent due diligence, is not relying upon the recommendations of any other Party, and is capable of understanding, understands, and accepts the provisions of this Amendment; (v) it has completely read, fully understands, and voluntarily accepts every provision hereof; and (vi) it agrees that neither Party shall have any provision hereof construed against such Party by reason of such Party drafting any provision of this Amendment.
- 5. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which will be deemed an original but all of which together shall constitute one and the same instrument.

**IN WITNESS THEREOF**, the Parties have caused this Amendment to be executed by their duly authorized representatives on the date(s) of their respective signatures below, to be effective however, subject to the Conditions Precedent herein, as of the Effective Date.

**Duke Energy Florida, LLC**

**Polk Power Partners, L.P.**

By: Polk Power GP, Inc., as its Managing  
General Partner

By: 

Name: Harry Sideris

Title: State President - FL

Date: November 10, 2017

By: 

Name: David M. Sims

Title: General Manager

Date: November 13, 2017

