

## **Rules of the Energy Auction**

### **1.0 Establishment**

1.1 Southern Companies shall cause the establishment and operation of an Energy Auction, as fully described herein, for a period of at least three (3) years from April 23, 2009.

1.2 Nothing contained herein shall be construed as affecting in any way the right of Southern Companies to unilaterally make application to the Commission for a change in rates under section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder to amend these Rules of the Energy Auction and associated Rules on Southern Companies' Energy Auction Participation; provided, however, that no such filing may have the effect of terminating both the DAE Auction and the HAE Auction during the initial three (3) year period of their operation.

1.3 This Tariff and these Rules of the Energy Auction do not give to any entity other than Southern Companies the legal or regulatory authority to sell capacity or energy under this Tariff.

### **2.0 Definitions**

These definitions shall apply to these Rules of the Energy Auction, the Rules on Southern Companies' Energy Auction Participation, as well as Appendices DA-1, DA-2, HA-1, and HA-2, thereto.

2.0a Administrative Charge: *See* Section 8.1.

2.1 Auction Administrator: Those persons administering the Energy Auction consistent with the provisions set forth herein.

2.2 Auction Rules: These Rules of the Energy Auction, as applicable to all entities participating in the Energy Auction, including Southern Companies.

2.3 Bidder: An entity participating in the Energy Auction for the purpose of buying Energy that: (a) has registered with the Auction Administrator (such registration to include the provision of contact and related information to the Auction Administrator), (b) has all requisite legal and regulatory authority to purchase Energy through the Energy Auction, and (c) has executed a Participant Agreement in a form acceptable to the Auction Administrator.

2.4 Bid Information: The prices, terms, and conditions under which a Bidder offers to purchase Energy through the DAE Auction or HAE Auction.

2.4a Bid Price: The maximum price for which a Bidder is willing to purchase Energy through a DAE Auction or HAE Auction, expressed in dollars per MWh (\$/MWh).

2.5 Business Day: Each weekday, Monday through Friday, excluding NERC holidays.

2.6 CPT: Central Prevailing Time.

2.7 Commission: The Federal Energy Regulatory Commission.

2.8 [Reserved]

2.9 [Reserved]

2.10 DAE Auction: That auction, administered in accordance herewith, for the matching of DAE Buyers and DAE Sellers intending to engage in the sale of Energy in the form of DAE Units.

2.10a DAE Auction Clearing Price: *See* Section 5.4.2.3.

2.11 DAE Bid: A bid by a Bidder containing one or more DAE Bid Blocks.

2.11a DAE Bid Block: A bid by a Bidder to purchase one or more DAE Units, reflecting the number of DAE Units requested, a Bid Price, and whether the Bidder will accept the purchase of less than the full number of DAE Units requested.

2.12 DAE Bid Period: The period beginning 12:00:00 Noon CPT two Business Days prior to the Delivery Day and ending at 6:45:00 am CPT one Business Day prior to the Delivery Day.

2.13 [Reserved]

2.14 DAE Buyer: A Bidder who has been matched with a DAE Seller through a DAE Auction.

2.15 [Reserved]

2.16 DAE Curve Crossover: *See* Section 5.4.2.3.

2.16a DAE Offer: An offer by an Offeror containing one or more DAE Offer Blocks and an indication of whether the DAE Offer is Dependent or Independent.

2.16b DAE Offer Block: An offer by an Offeror to sell one or more DAE Units, reflecting the number of DAE Units offered, an Offer Price, and whether the Offeror will accept the matching of less than the full number of DAE Units offered.

2.16c DAE Seller: An Offeror who has been matched with a DAE Buyer through a DAE Auction.

2.16d DAE Unit: A 50 MW increment of Energy bid or offered in the DAE Auction for delivery beginning at 6:00:00 am CPT and ending at 10:00:00 pm CPT on the Delivery Day. As used herein, the term "Unit" reflects an increment of Energy bought or sold in the Auction and does not refer to a generating facility.

2.17 Delivery Day: The calendar day in which Energy is intended to be delivered by a DAE Seller to its matched DAE Buyer(s).

2.18 [Reserved]

2.19 Delivery Hour: The clock hour in which Energy is intended to be delivered by an HAE Seller to its matched HAE Buyer(s).

2.19a Dependent Offer: *See* Section 5.2.3.

2.20 Energy: Electric energy delivered as three-phase alternating current.

2.21 Energy Auction: As the context may indicate, the DAE Auction and HAE Auction collectively, or the DAE Auction or the HAE Auction individually.

2.22 Firm LD: Shall have the meaning given to that term in the Governing Service Agreement, or, if not defined therein, shall mean energy transacted whereby a party shall be relieved of its obligations to sell and deliver or to purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure.

2.23 Force Majeure: Any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment (including failure of computer systems or communications equipment), order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a party's control; provided, however, that in the context of the definitions of Firm LD and Recallable herein, it shall have the meaning given to that term in the Governing Service Agreement (provided that such Governing Service Agreement provides such a definition).

2.24 Governing Service Agreement: The agreement between a DAE Seller and a DAE Buyer or between an HAE Seller and an HAE Buyer under which the sale of Energy is transacted.

2.25 HAE Auction: That auction, administered in accordance herewith, for the matching of HAE Buyers and HAE Sellers intending to engage in the sale of Energy in the form of HAE Units.

2.25a HAE Auction Clearing Price: *See* Section 6.4.1.2.

2.26 HAE Bid: A bid by a Bidder containing one or more HAE Bid Blocks.

2.26a HAE Bid Block: A bid by a Bidder to purchase one or more HAE Units, reflecting the number of HAE Units requested, a Bid Price, and whether the Bidder will accept the purchase of less than the full number of HAE Units requested.

2.27 HAE Bid Period: The period beginning 75 minutes prior to the beginning of the Delivery Hour and ending 60 minutes prior to the beginning of the Delivery Hour.

2.28 HAE Buyer: A Bidder who has been matched with an HAE Seller through an HAE Auction.

2.29 HAE Curve Crossover: *See* Section 6.4.1.2.

2.29a HAE Offer: An offer by an Offeror containing one or more HAE Offer Blocks.

2.29b HAE Offer Block: An offer by an Offeror to sell one or more HAE Units, reflecting the number of HAE Units offered, an Offer Price, and whether the Offeror will accept the matching of less than the full number of HAE Units offered.

2.30 HAE Seller: An Offeror who has been matched with an HAE Buyer through an HAE Auction.

2.30a HAE Unit: A one (1) MW increment of Non-Firm Energy bid or offered in the HAE Auction for delivery during the Delivery Hour. As used herein, the term "Unit" reflects an increment of Energy bought or sold in the Auction and does not refer to a generating facility.

2.31 Independent Offer: *See* Section 5.2.3.

2.32 [Reserved]

2.33 Independent Auction Monitor: An independent entity engaged by Southern Companies, subject to Commission approval, to monitor and periodically review the DAE Auction and HAE Auction and be responsible for responding to questions from Bidders and/or regulators regarding the integrity of the auction process.

2.34 Into Southern: For purposes of sales through the DAE Auction and the HAE Auction, the term "Into Southern" means that the energy shall be scheduled and delivered to an interconnection or interface either (i) on Southern Companies' transmission system border or (ii) within the Southern BAA if the Energy is from a source of generation in the Southern BAA, which interface, in either case, the Southern Transmission Provider identifies as available for delivery of the Energy in or into the Southern BAA.

2.35 [Reserved]

2.36 [Reserved]

2.37 MW: Megawatt or megawatts.

2.38 MWh: Megawatt-hour or megawatt-hours.

2.39 NERC: The North American Electric Reliability Corporation or its successor.

2.40 Non-Firm: Shall have the meaning given to that term in the Governing Service Agreement, or, if not defined therein, shall mean energy transacted whereby delivery by the seller may be interrupted for any reason or for no reason, without liability on the part of the seller.

2.41 Offer Information: The prices, terms, and conditions under which an Offeror offers to sell Energy through the DAE Auction or HAE Auction.

2.41a Offer Price: The minimum price for which an Offeror is willing to sell Energy through a DAE Auction or HAE Auction, expressed in dollars per MWh (\$/MWh).

2.41b Offeror: An entity participating in the Energy Auction for the purpose of selling Energy that: (a) has registered with the Auction Administrator (such registration to include the provision of contact and related information to the Auction Administrator ), (b) has all requisite legal and regulatory authority to sell Energy through the Energy Auction, and (c) has executed a Participant Agreement in a form acceptable to Auction Administrator.

2.41c Participant Agreement: An agreement executed by an entity and Auction Administrator that contractually binds such entity to comply with these Rules of the Energy Auction, including the obligation to pay for Administrative Charges.

2.41d Participation Rules: The Rules on Southern Companies' Energy Auction Participation included in this Tariff.

2.42 Recallable: Energy sold whereby the seller, upon experiencing a supply side disruption, an event of Force Majeure, or as needed to maintain system reliability, has the right, but not the obligation, to curtail the delivery of such Energy without liability on the part of the seller.

2.43 [Reserved]

2.44 SERC: The SERC Reliability Corporation or its successor.

2.45 Southern BAA: The Southern Balancing Authority Area, as that term is defined and used by NERC.

2.46 Southern Transmission Provider: One or more of the Southern Companies, or Southern Company Services as designated agent, that provides transmission service under the Southern Operating Companies' Open Access Transmission Tariff.

### 3.0 **Establishment and Administration**

3.1 The Auction Administrator will establish an auction via the Internet to facilitate: (a) the matching of DAE Sellers with DAE Buyers on a Business Day-ahead basis through the DAE Auction; and (b) the matching of HAE Sellers with HAE Buyers on an hour-ahead basis through the HAE Auction.

3.2 The DAE Auction shall take place every Business Day. The HAE Auction shall take place every hour of every day, including Business Days, weekends, and NERC holidays.

3.3 The Auction Administrator may administer a DAE Auction for Energy to be delivered on a weekend day or a NERC holiday at its discretion.

3.3.1 [Reserved]

3.3.2 [Reserved]

3.3.3 In the event the Auction Administrator chooses to run a weekend day or NERC holiday auction, the applicable DAE Bid Period shall open two (2) Business Days prior to the Delivery Day and close one (1) Business Day prior to the Delivery Day concurrently with the open and closing times for the DAE Auction for the next Business Day.

3.4 [Reserved]

3.5 All Bid Information and Offer Information submitted to the Auction Administrator shall be used by the Auction Administrator only for auction administration and audit purposes.

#### 4.0 **General Provisions**

4.1 [Reserved]

#### 4.2 **Transparency; Confidentiality**

4.2.1 Except as provided in Section 3.2.1 of the Participation Rules, the decision to report quantities and/or prices of transactions made via the Energy Auction to either a reputable index developer or a data hub will be the responsibility of each DAE Seller, DAE Buyer, HAE Seller, and HAE Buyer. Southern Companies shall not be responsible for reporting transactions made by other entities through the Energy Auction, except as provided in Section 4.2.4 below.

4.2.2 Clearing prices of the DAE Auction and HAE Auction shall be made available to Bidders and Offerors by the Auction Administrator on the following schedule:

4.2.2.1 [Reserved]

4.2.2.2 DAE Auction Clearing Price – Within fifteen (15) minutes of the close of the applicable DAE Bid Period.

4.2.2.3 HAE Auction Clearing Price – Within five (5) minutes of the close of the applicable HAE Bid Period.

4.2.3 The Auction Administrator shall make the information described in Section 4.2.2 publicly available (via posting on the Auction website) on the same timeline as such information is made available to Bidders and Offerors.

4.2.4 By the end of each calendar month, the Auction Administrator will post all Bid Information and Offer Information for such Energy Auctions that occurred during the sixth months prior to that calendar month (e.g., by the end of July, the aforementioned information for January will be posted), subject to the protection of Bidder and Offeror identities in accordance with the confidentiality provisions set forth herein.

4.2.5 Except as provided in Sections 4.2.6 and 5.5.1, the identity of all Bidders and Offerors shall be kept confidential from all third party entities, other than the Commission, the Independent Auction Monitor, and the Auction Administrator except to the extent it is required as a result of price reporting, EQR reporting, or auction monitoring/auditing.

4.2.6 The Auction Administrator shall post and maintain on the Auction website a list of all registered participants in the Energy Auction.

#### 4.3 Auditing; Auction Monitoring

4.3.1 The Auction Administrator will engage the Independent Auction Monitor to confirm that the Energy Auction is being properly administered in accordance with these Rules of the Energy Auction.

4.3.2 The Auction Administrator will ensure that all pertinent documentation associated with auction decisions shall be made available as required to the Independent Auction Monitor and the Commission.

4.3.3 The Independent Auction Monitor and Auction Administrator may share information related to the Energy Auction on a confidential and reciprocal basis.

4.3.4 The Independent Auction Monitor shall file reports with the Commission every twelve months for the first three years of operation of the Energy Auction. Such reports shall include, at a minimum, the following: (a) the clearing price for each Energy Auction; (b) the amount of Energy offered and sold by each seller (identified by name) in each Energy Auction; and (c) the amount of Energy bid on and purchased by each buyer in each Energy Auction. Southern Companies shall submit to the Commission, by February 15, 2011 and each year thereafter that the Administrative Charge remains in effect, a report of any refunds or surcharges resulting from overages or shortfalls calculated in accordance with Section 8.1.3.

4.3.5 The Independent Auction Monitor shall report to FERC any complaints relating to the Energy Auctions or other serious matters as soon as possible (rather than waiting for the next report). In addition, the Independent Auction Monitor is responsible for monitoring all Auction participants and promptly reporting any questionable behavior by any Auction participant to the Commission.

4.3.6 [Reserved]

4.3.7 The Independent Auction Monitor has independent authority to prepare and submit all such reports described herein without any prior review or approval by Southern Companies or any other outside sources.

4.4 Identification of Eligible Bidder(s)

4.4.1 Prior to participating in any Energy Auction, each Offeror shall identify the Bidder(s) to which it is authorized and/or willing to sell Energy and the associated credit limit(s) the Offeror has established for each Bidder. In the absence of such information, it shall be assumed that the Offeror is unauthorized or unwilling to sell Energy to other Bidders via the Energy Auction.

5.0 **DAE Auction**

5.1 Products Sold

5.1.1 All Energy comprising DAE Units shall be one of two products: (a) Firm LD Energy for a term of 16 hours beginning 6:00:00 am CPT on the Delivery Day and ending 10:00:00 pm CPT on the Delivery Day, or (b) Recallable Energy for a term of 16 hours beginning 6:00:00 am CPT on the Delivery Day and ending 10:00:00 pm CPT on the Delivery Day.

5.1.2 DAE Offers for Firm LD Energy and for Recallable Energy shall be offered simultaneously, but via separate auctions.

5.1.3 All Energy comprising DAE Units shall be considered delivered "Into Southern."

5.2 Submission of DAE Offers

5.2.1 At any time during a DAE Bid Period, an Offeror may submit to the Auction Administrator one or more DAE Offers, withdraw any DAE Offer, and/or change any DAE Offer previously submitted during such DAE Bid Period.

5.2.2 Offerors shall submit DAE Offers for Firm LD Energy independently from DAE Offers for Recallable Energy

5.2.3 Each DAE Offer shall specify whether each DAE Block included in such DAE Offer is being offered independently (an "Independent Offer") or whether the matching of higher-priced DAE Blocks in such DAE Offer is contingent on the matching of lower-priced DAE Blocks in such DAE Offer (a "Dependent Offer").

### 5.3 Submission of DAE Bids

5.3.1 At any time during the DAE Bid Period, a Bidder may submit to the Auction Administrator a DAE Bid, withdraw any DAE Bid, and/or change any DAE Bid previously submitted during such DAE Bid Period.

5.3.2 Bidders shall submit DAE Bids for Firm LD Energy independently from DAE Bids for Recallable Energy.

5.3.3 A Bidder may submit for a given Delivery Day no more than one DAE Bid for Firm LD Energy and no more than one DAE Bid for Recallable Energy.

### 5.4 Auction Evaluation

5.4.1 DAE Bids and DAE Offers for Firm LD Energy and Recallable Energy shall be evaluated independently by the Auction Administrator.

5.4.2 Upon close of the DAE Bid Period, DAE Units shall be awarded as follows.

5.4.2.1 The DAE Units associated with all DAE Bid Blocks will be sorted in descending order (highest to lowest Bid Price) to simulate an economic demand curve. In the event two or more DAE Bid Blocks specify the same Bid Price, a DAE Bid Block submitted earlier in time shall receive a higher priority than a DAE Bid Block submitted later in time.

5.4.2.2 The DAE Units associated with all DAE Offer Blocks will be sorted in ascending order (lowest to highest Offer Price) to simulate an economic supply curve. In the event two or more DAE Offer Blocks specify the same Offer Price, a DAE Offer Block submitted earlier in time shall receive a higher priority of award than a DAE Offer Block submitted later in time.

5.4.2.3 The intersection of the simulated supply and demand curves (the "DAE Curve Crossover") shall be determined by locating the quantity on the supply and demand curves where the Bid Price of the next DAE Bid Block is less than the Offer Price of the next DAE Offer Block. The "DAE Auction Clearing Price" will be determined as the greater of: (i) the Offer Price of the last DAE Offer Block prior to the DAE Curve Crossover (*i.e.*, the highest-priced DAE Offer Block prior to the DAE Curve Crossover) and (ii) the Bid Price of the DAE Bid Block that established the DAE Curve Crossover.

5.4.2.4 Each DAE Bid Block with a Bid Price greater than or equal to the DAE Auction Clearing Price will be considered for matching. Each DAE Offer Block with an Offer Price less than or equal to the DAE Auction Clearing Price will be considered for matching. The matching process shall honor, to the extent practicable, original bid and offer priority subject to credit limits and other counterparty limitations as established by Offerors.

5.4.2.5 [Reserved]

5.4.2.6 If there are no DAE Bid Blocks with a Bid Price that exceeds the Offer Price of the lowest-priced DAE Offer Block, no DAE Units shall be awarded.

5.4.2.7 Parties submitting any DAE Bid Blocks or DAE Offer Blocks that were considered for matching but which were not awarded any DAE Units because of credit or other counterparty limitations shall be notified to this effect.

5.4.3 All DAE Buyers shall pay a price and all DAE Sellers shall receive a price for DAE Units awarded based upon the DAE Auction Clearing Price; provided, however, that the Auction Administrator may collect the Administrative Charge in accordance with Section 8.1.

5.5 Notification, Confirmation, and Delivery

5.5.1 Within fifteen (15) minutes after the close of the DAE Bid Period, the Auction Administrator shall notify each Offeror and each Bidder that submitted a DAE Bid or DAE Offer during such DAE Bid Period of its respective awarded DAE Units and the counterpart(y)(ies) to such award.

5.5.2 Each DAE Seller awarded a DAE Unit shall be responsible for contacting its DAE Buyer counterparty to finalize the transaction and to arrange delivery of Energy comprising such DAE Unit. Notwithstanding Section 5.1.3, the delivery point for such Energy shall be that location determined by DAE Seller or such other point mutually agreed to by DAE Seller and DAE Buyer.

5.5.3 Upon notification of being awarded a DAE Unit, DAE Buyer shall be responsible for taking delivery from the delivery point, including all transmission reservations and scheduling (*i.e.*, NERC e-tagging) requirements, unless DAE Buyer and DAE Seller agree to alternative arrangements.

5.6 Recallable Energy

5.6.1 Each DAE Seller shall have the right, but not the obligation, to curtail delivery of Recallable Energy sold as DAE Units in the event it experiences a supply side disruption (*e.g.*, an unplanned outage or derate) affecting the Energy offered into the DAE Auction.

5.7 Non Performance

5.7.1 Any attempt by a DAE Buyer to schedule delivery from a location other than that location specifically identified as the delivery point for the applicable Energy shall be considered non-performance by DAE Buyer and the DAE Seller shall have the right to deny the schedule without consequence to itself.

5.7.2 In the event a DAE Buyer fails to properly take delivery of Recallable Energy awarded in the DAE Auction, the DAE Seller shall buy back the Energy at 90 percent of the applicable DAE Auction Clearing Price and DAE Buyer shall be financially responsible for the difference.

## 6.0 **HAE Auction**

### 6.1 **Products Sold**

6.1.1 All Energy comprising HAE Units shall be for delivery during the Delivery Hour and for duration of one (1) clock hour.

6.1.2 All Energy comprising HAE Units shall be considered delivered "Into Southern."

### 6.2 **Submission of HAE Offers**

6.2.1 At any time during an HAE Bid Period, an Offeror may submit to the Auction Administrator one or more HAE Offers, withdraw any HAE Offer, and/or change any HAE Offer previously submitted during such HAE Bid Period.

6.2.2 Each HAE Offer shall specify whether each HAE Block included in such HAE Offer is an Independent Offer or Dependent Offer.

### 6.3 **Submission of HAE Bids**

6.3.1 At any time during the HAE Bid Period, a Bidder may submit to the Auction Administrator an HAE Bid, withdraw any HAE Bid, and/or change any HAE Bid previously submitted during such HAE Bid Period.

6.3.2 A Bidder may submit for a given Delivery Hour no more than one HAE Bid.

### 6.4 **Auction Evaluation**

6.4.1 Upon close of the HAE Bid Period, HAE Units shall be awarded as follows.

6.4.1.1 All HAE Bid Blocks will be sorted in descending order (highest to lowest Bid Price) to simulate an economic demand curve. In the event two or more HAE Bid Blocks specify the same Bid Price, an HAE Bid Block submitted earlier in time shall receive a higher priority of award than an HAE Bid Block submitted later in time.

6.4.1.1a All HAE Offer Blocks will be sorted in ascending order (lowest to highest Offer Price) to simulate an economic supply curve. In the event two or more HAE Offers specify the same Offer Price, an HAE Offer Block

submitted earlier in time shall receive a higher priority than an HAE Offer Block submitted later in time.

6.4.1.2 The intersection of the simulated demand curve and supply curve (the "HAE Curve Crossover") shall be determined by locating the quantity on the supply and demand curves where the Bid Price of the next HAE Bid Block is less than the Offer Price of the next HAE Offer Block. The "HAE Auction Clearing Price" will be determined as the greater of: (i) the Offer Price of the last HAE Offer Block prior to the HAE Curve Crossover (*i.e.*, the highest-priced HAE Offer Block prior to the HAE Curve Crossover) and (ii) the Bid Price of the HAE Bid Block that established the HAE Curve Crossover.

6.4.1.3 Each HAE Bid Blocks with a Bid Price greater than or equal to the HAE Auction Clearing Price will be considered for matching. Each HAE Offer with an Offer Price less than or equal to the HAE Auction Clearing Price will be considered for matching. The matching process shall honor, to the extent practicable, original bid and offer priority subject to credit limits and other counterparty limitations as established by Offerors.

6.4.1.4 [Reserved]

6.4.1.5 If there are no HAE Bid Blocks with a Bid Price that exceeds the Offer Price of the lowest-priced HAE Offer Block, no HAE Units shall be awarded.

6.4.1.6 [Reserved]

6.4.1.7 Parties submitting any HAE Bid Blocks or HAE Offer Blocks that were considered for matching but which were not awarded any HAE Units because of credit or other counterparty limitations shall be notified to this effect.

6.4.2 All HAE Buyers shall pay a price and all HAE Sellers shall receive a price for HAE Units awarded based upon the HAE Auction Clearing Price; provided, however, that the Auction Administrator may collect the Administrative Charge in accordance with Section 8.1.

## 6.5 Notification, Confirmation, and Delivery

6.5.1 Within five (5) minutes after the close of the HAE Bid Period, the Auction Administrator shall notify each Offeror and each Bidder that submitted an HAE Offer or HAE Bid during such HAE Bid Period of its respective awarded HAE Units and the counterpart(y)(ies) to such award.

6.5.2 Each HAE Seller awarded an HAE Unit shall be responsible for contacting its HAE Buyer counterparty to arrange delivery of Energy comprising such HAE Unit. Notwithstanding Section 6.1.2, the delivery point for such Energy shall be

that location determined by HAE Seller or such other point mutually agreed to by HAE Seller and HAE Buyer.

6.5.3 Upon notification of being awarded an HAE Unit, HAE Buyer shall be responsible for taking delivery from the delivery point, including all transmission reservations and scheduling (*i.e.*, NERC e-tagging) requirements, unless the HAE Buyer and HAE Seller agree to alternative arrangements.

6.6 [Reserved]

6.7 Non Performance

6.7.1 In the event HAE Buyer fails to properly take delivery of Energy awarded in the HAE Auction, the HAE Seller shall buy back the Energy at 90 percent of the applicable HAE Auction Clearing Price and HAE Buyer shall be financially responsible for the difference.

7.0 Force Majeure

7.1 Auction Administrator and Independent Auction Monitor shall be excused from non-compliance with these Rules of the Energy Auction to the extent such non-compliance is the result of an event of Force Majeure.

8.0 Administrative Charge

8.1 In order to recover the costs to develop, implement, and administer the Energy Auction, Auction Administrator may assess on behalf of Southern Companies an administrative charge on DAE Sellers, DAE Buyers, HAE Sellers, and HAE Buyers for all Energy awarded to such entities through the Energy Auction (the "Administrative Charge").

8.1.1 The Administrative Charge may be assessed by Auction Administrator on DAE Sellers, DAE Buyers, HAE Sellers, and HAE Buyers regardless of whether Energy awarded to such entities is actually delivered and whether such sellers are paid by their matched buyers for such Energy.

8.1.2 The Administrative Charge shall be set initially at \$0.02 per MWh. Auction Administrator shall, on an annual basis, determine whether the amounts collected through the Administrative Charge result in an overage or shortfall in the recovery of such costs. By February 15, 2011, and continuing annually thereafter, Auction Administrator shall post on the Auction website a report identifying: (i) the amount recovered under the approved charge structure for the immediately preceding year; (ii) the administrative costs for that same period; (iii) the amount carried over, if any; and (iv) the revised Administrative Charge to be effective for the upcoming year (*i.e.*, February 15 through February 14).

8.1.3 In the event that the amounts collected through operation of the Administrative Charge are greater than the costs incurred (*i.e.*, an overage), Auction

Administrator shall refund the difference based on a *pro rata* allocation calculated on the volume of Energy awarded during the preceding calendar year, with interest calculated in accordance with 18 C.F.R. Section 35.19a. In the event that the amounts collected through operation of the Administrative Charge are less than the costs incurred (*i.e.*, a shortfall), Auction Administrator may upwardly adjust the Administrative Charge on a prospective basis; provided, however, that: (i) any shortfall shall be carried forward and be reflected on the annual posting of costs on the Auction website, and (ii) any upward adjustment in any one year cannot exceed \$0.01 per MWh.

8.2 The Auction Administrator shall, on or before the tenth (10th) Business Day of a given month, invoice DAE Sellers, DAE Buyers, HAE Sellers, and HAE Buyers for the Administrative Charges applicable to Energy awarded in the previous month; provided, however, that the failure of Auction Administrator to invoice such charges by such deadline shall not absolve any entity of the obligation to pay any invoice for Administrative Charges whenever tendered.

8.3 The obligation of any entity invoiced by the Auction Administrator for Administrative Charges to pay such invoice, disputes regarding such invoice, interest accrual provisions, and remedies for failure to pay such invoice shall be governed by the terms of the Participant Agreement executed by such entity.