

AUTHORIZATION TO ENTER INTO AN ASSIGNMENT AND PURCHASE
AGREEMENT WITH RESPECT TO CERTAIN OF THE AUTHORITY'S RIGHTS
UNDER THE TOSHIBA SETTLEMENT AGREEMENT AND ITS CLAIMS IN THE
WESTINGHOUSE BANKRUPTCY PROCEEDING

Adopted _____

Rejected _____

Postponed _____

R E S O L U T I O N

WHEREAS, On May 23, 2008, South Carolina Electric Company (SCE&G) on its own behalf and as agent for the South Carolina Public Service Authority (the "Authority") executed the Engineering, Procurement and Construction Agreement (the "EPC") with Westinghouse Electric Company, LLC ("Westinghouse") and Stone & Webster, Inc. (together the "Consortium") to build two 1100MW Westinghouse AP1000 nuclear units at the V.C. Summer site in Fairfield County, South Carolina; and

WHEREAS, Westinghouse is a subsidiary of Toshiba Corporation ("Toshiba"), and Westinghouse's obligations under the EPC are supported by a Toshiba Parental Guaranty; and

WHEREAS, Westinghouse filed a Petition pursuant to Chapter 11 of the Bankruptcy Code on March 29, 2017, in the United States Bankruptcy Court for the Southern District of New York, Case No. 17-10751-MEW ("Westinghouse Bankruptcy Proceeding"); and

WHEREAS, after the filing of the bankruptcy proceeding, the Authority and SCE&G entered into negotiations with Toshiba Corporation for the purpose of acknowledging and defining Toshiba's obligation under Toshiba's May 23, 2008 Guaranty and establishing a schedule for the full payment of that obligation to the Authority and SCE&G; and

WHEREAS, on July 27, 2017 the Authority, SCE&G and Toshiba entered into a Settlement Agreement that provides, among other things:

- A. Toshiba's agreement that it will pay the Guaranty obligation in the amount of \$2.168 billion, to be paid in accordance with a schedule set forth in the Settlement Agreement;
- B. Toshiba's agreement that payment of the Guaranty obligation and related payment schedule is not dependent on whether one or both of the two units are completed;
- C. Toshiba's agreement that the Authority and SCE&G are not releasing any claims or rights against Westinghouse;
- D. Toshiba's agreement not to subordinate the Guaranty obligations except to working capital lenders and other relationships necessary to continue and enhance its financial condition;

- E. Toshiba, Westinghouse, and the owners of the Vogtle and VC Summer AP1000 Project's agreement to become parties to a consent order in the Bankruptcy Court that approves assignment by Toshiba to the V.C. Summer and Vogtle owners of all rights to the non-U.S. assets in the Westinghouse family of companies owned by Toshiba, any of Toshiba's rights against Westinghouse relating to loans, and similar receivables;
- F. Agreement by the Parties to the Settlement Agreement to work towards an expeditious sale of Westinghouse;
- G. The Authority and SCE&G's agreement that the distribution proceeds received from the Westinghouse bankruptcy will be a credit against the Guaranty; and
- H. The Authority and SCE&G's agreement not to exercise remedies of the Guaranty, absent a default, until September of 2022; and

WHEREAS, on September 1, 2017 SCE&G and the Authority filed two proofs of claim in unliquidated amounts (numbers 2440 and 2444) in the Westinghouse Bankruptcy Proceeding; and

WHEREAS, on September 15, 2017, SCE&G and the Authority formally launched a process to explore the monetization of its rights under the July 27, 2017 Toshiba Settlement Agreement and its claim filed in the Westinghouse Bankruptcy Proceeding. The process focused on a targeted set of accredited credit investors in order to evaluate options, including a sale, financing, or other value maximizing transaction. As per the terms of the Assignment and Purchase Agreement, the owners retained their beneficial interest in the first payment owed by Toshiba pursuant to the Settlement Agreement, the amount of which is \$150 million resulting in monetization of \$2.018 billion net claim amount;; and

WHEREAS, SCE&G and the Authority received a number of bids in response to its targeted solicitation, which bids have been carefully reviewed and analyzed by SCE&G, the Authority and their joint and individual outside financial advisors and attorneys, including Ducera Securities, LLC and Reed Smith, LLP; and

WHEREAS, SCE&G and the Authority have chosen a preferred bid, and have negotiated a mutually acceptable form of Assignment and Purchase Agreement under which they will sell and assign their rights to receive payment from Toshiba under the Toshiba Settlement Agreement and its rights, duties and obligations arising under proof of claim numbers 2440 and 2444 filed in the Westinghouse Bankruptcy Proceeding to CITIBANK, N.A., in exchange for a purchase price in the amount of \$1,847,075,400. The Authority's share of the purchase price is \$831,183,930; and

WHEREAS, The Board of Directors has had the opportunity to review the key terms of the Assignment and Purchase Agreement with regard to consideration of this Resolution and has received and relied upon briefings, opinions and information presented by Nuclear Executive Management of the Authority (consisting of the President and CEO, Senior Vice President of Nuclear Energy, Senior Vice President and General Counsel, and Senior Vice President and Chief Financial Officer); and

WHEREAS, The Board of Directors has also received and relied upon opinions presented by internal and external legal counsel and external consultants with regard to consideration of this Resolution; and

WHEREAS, Upon recommendation of Nuclear Executive Management of the Authority and in reliance upon the opinions and information presented to it as set forth herein, the Board of Directors has determined that the terms of the Assignment and Purchase Agreement are fair and reasonable; and

WHEREAS, The Board of Directors has considered and appropriately balanced the factors set forth in South Carolina Code Section 58-31-55(A)(3) and has determined that the actions authorized by this Resolution are in the best interests of the Authority; now, therefore, be it

RESOLVED, That the Senior Vice President and Chief Financial Officer of the Authority is hereby authorized to execute the Assignment and Purchase Agreement referenced in this Resolution on behalf of the Authority; and be it further

RESOLVED, That the Senior Vice President and Chief Financial Officer of the Authority is hereby authorized to take such further actions and execute such further agreements or instruments as may be necessary to carry out the foregoing Resolution, with the exact terms and conditions to be determined by Senior Vice President and Chief Financial Officer.