MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is made by and among Chem-Nuclear Systems, LLC, a subsidiary of EnergySolutions; ("Chem-Nuclear") the South Carolina Budget and Control Board ("the Board"); and with respect to Paragraph 3(b) only, the South Carolina Department of Revenue (collectively, "the Parties") regarding certain matters related to the disposal of low level radioactive waste at Chem-Nuclear's Barnwell Facility and the pricing for the disposal of such waste beginning July 1, 2009 ("the 2010 Fiscal year").

WHEREAS, the Parties seek to memorialize arrangements that will allow the Barnwell disposal facility to continue to serve the disposal needs of radioactive waste generators in the State of South Carolina and the Atlantic Compact region; and

WHEREAS, continuing access to the Barnwell disposal site by Atlantic Compact waste generators requires that the site remain economically viable in spite of the small volume of waste received from this limited customer base; and

WHEREAS, several major waste generators in the Atlantic Compact region have notified the Board staff that they will develop agreements in cooperation with the disposal site operator, that considered collectively, will ensure the economic viability of the Barnwell disposal facility and eliminate any need to request public subsidies from the extended care fund to cover essential operating costs and statutory obligations, and

WHEREAS, these generators have requested that the Board – in consideration of their commitment to ensure the economic viability of the disposal site – establish annual disposal rates and/or access fees at a break-even
that were paid by Atlantic Compact Commissions for waste disposed in the
beginning of the fiscal year of carried over funds, as provided in Paragraph
rates are based shall be reduced by $500,000 due to the availability at the
For Fiscal Year 2010 only, the Revenue Requirement on which the disposal
Decommisisoning Trust Fund of the Extended Care Fund, as provided below.
associated with the disposal facility except for those costs paid from the
Carolina Public Service Commission (PSR) and all statutory obligations.
years) and cover the costs of all allowable costs as identified by the South
fiscal year for the fiscal year (plus or minus any adjustments from prior fiscal
intended to equal, but not exceed, the costs for safely operating the disposal
Establish a rate schedule for each fiscal year at a level that is

Commission and waste generators, and consistent with applicable laws, agrees
1. The Board, in consultation with Chey-Neura, the Atlantic Compact

covenants in this memorandum, the Parties agree as follows:
NOW THEREFORE, for and in consideration of these promises and the mutual
Regional facility,
post-closure observation and maintenance, and institutional control of the
and sufficient to cover all costs related to the development, operation, closure,
code of laws), which provides that the regional fee schedule shall be reasonable
Compact Statute (P.L. 99-420, Title II, at 48-46-70, South Carolina
WHEREAS, this arrangement is consistent with the provisions of the Atlantic
and to meet all statutory and regulatory obligations; and
level necessary to yield revenues sufficient to safely operate the disposal facility.
all shortages will be invoiced for a pro-rata share of the difference, unless
requirement, then each generator who has entered into an agreement to cover
approves allowable costs and margin that exceed the interim revenue
a pro-rata refund within 30 days of the end of the fiscal year. If the PSC
generator who has entered into an agreement to cover all operating shortages
paid through fees and surcharges, then Chemical Nuclear shall issue each
adjusted amounts (approved by the PSC) for a fiscal year in less than the amounts
fiscal year. In the event that the total of operating costs and margin (and all
costs for each fiscal year is expected no later than the end of the following
State of South Carolina), final approval by the PSC of allowable operating
overcollection to generators prior to the annual transfer of revenue to the
operating costs, the disposal site operator will refund a pro-rata portion of the
disposal revenues received through fees and access payments exceed actual
by the site operator to dispose of the waste. At the end of any fiscal year, if
basis in an amount sufficient to cover all additional operating costs incurred
components, the board agrees pricing will be calculated on a case-by-case
hardware (trench, shipments, and steam generators and other large
otherwise authorized by the PSC. For non-routine waste such as irradiated
generators, that the operator will voluntarily accept less compensation than
the operator provides a binding commitment, after consultation with the
consist with allowable costs as identified by the PSC. If the disposal
costs consistent with allowable costs as determined by the PSC, if the disposal
may, in any year, be targeted at a level that is less than estimated operating
previous fiscal year. The Revenue requirement and resulting disposal rates
allowable costs of operation.

any determinations by the Public Service Commission regarding
in accordance with an apportionment schedule that is consistent with
and other shared costs of common areas of the decommissioning property.

III. A portion of the total costs for monitoring, security, custodial care,
facilities property to assess compliance with regulatory standards.

II. The costs of monitoring areas adjacent to the Barnwell decommissioned
Department of Health and Environmental Control.

decommissioned facility that have been designated as closed areas by the

I. The costs for monitoring and custodial care of those portions of the

include:

- Costs of the decommissioned facility and its surroundings.
- Institutional costs mutually agreeable to Chem-Nuclear and the Board. These costs are
- to cover "institutional category of "Other Selected Traditional Service Industries." or another index
- monthly producer price index for the Net Output of Selected Industries in the
March of each fiscal year in accordance with the most currently available
find in an amount not to exceed $2,000,000 each fiscal year (adjusted in
the Barnwell Decommissioning Trust Fund) for the Barnwell Extended Care
consistent with all laws, regulations and procedures approved by the Board or its designee shall.

b. Recognizing that large portions of the Barnwell facility grounds are
accept such revenues or disbursements.

Chem-Nuclear voluntarily waives its right under South Carolina law to seek or
generators will make up any such shortfall, or
and set forth the bridging mechanism by which Chern-Nuclear and/or the waste
authorized by law, in the event that operating costs exceed disposal revenues,
requested to cover operating costs in any fiscal year, except as may be
the Barnwell Extended Care Fund or any other Publicly-held Fund will be
waste generators that, considered collectively, guarantee that no funds from
b. Copies of individual bridging agreements between Chern-Nuclear and
exceed disposal revenues,
year, except as may be authorized by law, in the event that operating costs
Publicly-held Fund will be requested to cover operating costs in any fiscal
and that no funds from the Barnwell Extended Care Fund or any other
through private arrangements with the generators, cover operating shortfalls
representative of Chern-Nuclear that guarantees that Chern-Nuclear will,
a. A binding commitment to the Board signed by an authorized
shortfall will be covered by either:
shortfall. Chern-Nuclear shall provide the Board assurance that operating
from the „Barnwell Operational Shortfall Escrow Account“ to offset any resulting
determined not to be the responsibility of the generators, funds may be used
extent a deficit occurs due to unanticipated increases in operating costs, and is
teh Merrill and the operators operating margin (except as provided for in 2c). To the
disposable customers to cover the sites operators cost of disposing the disposable
year to cover any shortfalls in the amount of disposable revenues received from
Board Bridging assurance that no public funds will be requested during the fiscal
2. Chern-Nuclear, prior to the beginning of each fiscal year, shall provide the
at any time during the fiscal year and when available cash receipt balances
fiscal year, and (b) to ensure the availability of funds to cover operating costs
and margin prior to the accumulation of positive cash flows in a new
funding is to provide a cash flow cushion (a) to cover allowable operating
each year's disposal receipts thereafter. The purpose of this carry-over
then $1,000,000 from Fiscal Year 2009 disposal receipts and $500,000 from
customers that are eligible for refund, Chem-Nuclear may also retain not more
not previously paid; and any overcollection of fees and charges from disposal
operating margin; statutory assessments and obligations for the fiscal year
June 30 for waste received in that fiscal year minus allowable costs and

c. The annual payment to DOR shall be the total revenue received by
and business@ctex. org

DOR via e-mail message to the following two addresses: business@ctex.org
any transmission of disposal revenue, Chem-Nuclear shall provide notification to
any transaction of disposal revenue, Chem-Nuclear shall provide notification to
each fiscal quarter in which any such revenues are collected. At the time of
each fiscal quarter in which any such revenues are collected, at the time of
to DOR in the form of a supplemental payment within 30 days of the end of
fiscal year for waste disposed in the previous fiscal year shall be transferred
of Revenue. All disposal revenue collected from disposal customers in a
end of the fiscal year Chem-Nuclear shall submit a payment to the Department
b. Consistent with S.C. Code 48-64-40(D) within 30 days following the
cash flows is hereby rescinded.

2002, between Chem-Nuclear and the Board, pertaining to carry-over receipts and
3. a. Exhibit G of the Memorandum of Understanding executed May 8,

3. c. Another form mutually agreeable to the parties.
UNDERSTANDING to be signed and sealed this the 30th day of 2009 by their duly authorized representatives.

IN WITNESS WHEREOF, the Parties have caused this MEMORANDUM OF

Compact Region.

and the Barnwell site is limited to disposal of waste generated within the Atlantic region or South Carolina is the host state for the Atlantic Compact region, unless terminated, this MEMORANDUM OF UNDERSTANDING shall remain in

mutually agreeable to the parties.

termination shall be effective on the final day of a fiscal year, or on another day termination shall not be less than 90 days prior to the date of termination, and

Department of Revenue, Notice of Intent to terminate shall be provided in writing by the

Chief-Nuclear on the Board, and with respect to Paragraph 4(b) by the

5. THIS MEMORANDUM OF UNDERSTANDING may be terminated in writing by

parties, with respect to the Barnwell disposal site, laws, regulations, licenses, permits, leases, or other agreements between the

constituted to alter any of the rights and obligations of the parties, as set forth in establishment of disposal rates. Nothing contained in this agreement shall be

between the Parties related to reimbursement for disposal site operation and the

billing cycle.

are not sufficient to cover these costs due to short-term lags caused by the