

**EXHIBIT II**

**COAL TRANSLOAD AGREEMENT**

**BETWEEN**

**SCH SERVICES, LLC**

**AND**

**LOUISVILLE GAS AND ELECTRIC COMPANY**

**AND**

**KENTUCKY UTILITIES COMPANY**

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## COAL TRANSLOAD AGREEMENT

This Coal Transload Agreement, designated as contract J18007 (this "Agreement") is made and entered into as of July 11, 2017 by and between SCH SERVICES, LLC ("SCH"), a Kentucky limited liability company, individually and as agent for Four Rivers Terminal, LLC and Calvert City Terminal, LLC, with a common address at 1650 Murfreesboro Rd., Franklin, Tennessee 37067, and LOUISVILLE GAS AND ELECTRIC COMPANY ("LG&E") and KENTUCKY UTILITIES COMPANY ("KU") each, a Kentucky corporation (collectively "Shipper") with a common address at 220 West Main Street, Louisville, Kentucky 40202, (SCH and Shipper being individually a "Party" and collectively the "Parties").

### WITNESSETH THAT:

WHEREAS, SCH operates rail-to-barge transloading facilities known as Four Rivers Terminal (primary transload facility "FRT") and Calvert City Terminal (backup transload facility "CCT") (individually a "Facility" or collectively the "Facilities", as applicable) to transfer Coal from railcars to barges primarily at FRT-Paducah, Kentucky on the Ohio River, milepost 943.5; and secondarily at CCT-Calvert City, Kentucky on the Tennessee River, milepost 14.1.

WHEREAS, Shipper desires to ship Coal from the Powder River Basin ("Mine") on the Burlington Northern Railway Company ("RR") to the Facilities for transloading into barges furnished by Shipper for further transportation to a destination as provided by Shipper; and

WHEREAS, Shipper desires SCH to perform the transloading service for this Coal movement pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties hereto agree as follows:

### ARTICLE I

#### TERM

The term of this Agreement shall begin September 1, 2017 and end December 31, 2019 unless terminated earlier by agreement or as otherwise provided herein. The Parties acknowledge that Shipper does not anticipate shipping coal prior to January 1, 2018.

## ARTICLE II

### TONS AND SHIPMENT

Unless the Parties agree otherwise, Shipper currently anticipates shipping at least 500,000 tons per calendar year and is authorized to ship up to 700,000 tons per calendar year, unless mutually agreed upon by both Parties, to the particular Facility, as designated by Shipper, for transloading, subject only to adjustment of the coal plant burn and/or pursuant to Article XI, Force Majeure.

Shipper shall notify SCH of the anticipated shipment schedule of Coal to be transloaded during the next succeeding month at least ten (10) days prior to each such month. Unless the Parties agree otherwise, Shipper shall not schedule more than five (5) Shipments during any calendar month. Shipper agrees to cause such tonnage to be loaded in reasonably even monthly increments unless a planned outage event impacts monthly ratability in which case the ratability requirement for a single month containing the outage shall be waived to the extent required by the planned outage; however, Shipper will preserve the ratability of the other months in the calendar year, subject to adjustment pursuant to Article XI, Force Majeure.

All shipments to the Facility must move in Shipper or RR furnished rapid discharge aluminum railcars.

## ARTICLE III

### TRAIN-BARGE SCHEDULING AND COORDINATION

Shipper shall arrange for the rail movement of empty railcars to the Mine for loading, the loading of the railcars, and the return rail movement of the loaded railcars to the Facility. Shipper agrees that SCH shall not be responsible for the cost of any of the aforementioned rail transportation services.

For each Shipment of Coal hereunder, Shipper or Shipper's designee, shall send to SCH, via e-mail (inboundrail@sch-ces.com) as directed by SCH, a shipping notice showing railcar numbers, weight of the Coal in each railcar, shipping date, shipping origin, destination Facility and contract number J18007.

SCH shall perform the service of transloading the Coal from the loaded railcars into barges supplied by Shipper. At Shipper's sole option, Shipper may direct, via email (inboundrail@sch-ces.com), SCH to unload Coal from the loaded railcars to ground storage and subsequently load from ground to barge.

Shipper shall schedule and coordinate the movement of unit trains and barges so that the Shipments can be unloaded into barges without undue delay. SCH will use reasonable commercial efforts

to make available adequate barge fleeting capacity at the Facility. Shipper is authorized to maintain up to no more than an aggregate maximum barge capacity equivalent to ten (10) jumbo barges in Facility's barge fleeting area. All such placements will be as directed by SCH's personnel. SCH will visually inspect all empty barges prior to loading to determine whether the barges are seaworthy and substantially free of foreign material or water. All barges placed by Shipper for the transloading of any unit train shall be from the same barge line. SCH shall not be required to load specific railcars into specific barges. All railcars will be transloaded consistent with the normal operating procedures at Facility; provided, however, that SCH, in general, shall transload Shipper's railcars into barges on a first in, first out basis, provided that Shipper has barges timely placed at the Facility.

Shipper's barges shall be allowed five (5) days free time after being placed in SCH's fleeting area and will incur a fleeting charge of Forty-One Dollars (\$41) per barge per day for each day in excess of the five (5) day free time period. The five (5) day free time period for such barges shall begin from the first 0700 hours following of placement of barges in SCH fleeting area and shall end at the first 0700 hours following of removal of barges from the SCH fleeting area. SCH is not responsible for the costs of pumping or repairing barges if such services are required, except when due to the acts or omissions of SCH or its' representatives.

SCH shall transload or cause to be transloaded coal from provided railcars to provided barges subject to Article VI and IX. If, during the loading of Shipper's barges, there is insufficient barge capacity to accommodate the quantity of Coal transported in an entire unit train, SCH shall unload such surplus Coal to ground storage and subsequently load Coal from ground to barge.

#### **ARTICLE IV**

#### **EQUIPMENT**

Shipper has the duty to furnish seaworthy barges free of water and other extraneous material capable of being loaded by single-pass loading, and provided with adequate rigging for fleeting and loading operations. SCH reserves the right to refuse any barge(s) that it reasonably deems does not meet the criteria herein. SCH reserves the right to refuse any railcar it reasonably deems to be unsafe, or contains material that is not free flowing, or contains non-coal items that could damage SCH equipment. SCH shall notify Shipper as soon as possible of any rejection or potential reject event and agrees to work with Shipper on a commercially reasonable solution.

**ARTICLE V**

**RATES**

For the service of direct transloading of Coal from railcars to barges or to ground storage, all as described herein, Shipper shall pay to SCH the following rates per net ton of 2,000 pounds weight for the term of this Agreement:

<u>Rate (Per Ton)</u>	
2017 and 2018	\$1.70
2019	\$1.75

For the service of loading Coal from ground storage to barges, solely when occurring at the direction by Shipper or due to insufficiency of barge capacity, in either case Shipper shall pay to SCH the following rates per net of 2,000 pounds weight for the term of this Agreement:

<u>Rate (Per Ton)</u>	
2017 and 2018	\$0.50
2019	\$0.50

Certified scales or weighing systems at the Mine(s) shall determine weights for billing purposes.

**ARTICLE VI**

**DEMURRAGE**

Shipper shall be responsible for all railroad accrued demurrage charges, as well as all other railroad incurred charges.

Notwithstanding the above, SCH shall be responsible for and shall reimburse Shipper any railroad demurrage or similar charges caused by its acts or omissions. SCH will make reasonable efforts to have the Facility ready to receive a train and discharge trains within 12 hours after arrival at the Facility. Any RR demurrage incurred by Shipper, due to the acts or omissions of SCH, (i) after twelve (12) hours from the actual placement of Shipper's train by RR or (ii) for a train that must be constructively placed because of any condition at the Facility that requires the RR to hold the train short of actual placement, shall be the responsibility of SCH. Demurrage rate shall not exceed \$600 per hour (or any fraction of an hour).

Unloading Free Time requirements as set forth below ("Unloading Free Time") shall be used to determine each train's actual unloading time and to calculate charges for unloading time in excess of the Unloading Free Time period allowed. Unloading Free Time shall begin immediately following the Actual Placement of each train for unloading. Actual Placement shall be defined as the point in time at which all of the following conditions have been met: 1) a loaded train has been delivered to the designated drop-off location at Facility by the RR, 2) the dropped off locomotives and railcars are

properly configured and equipped for unloading, and 3) at least one hour for routine maintenance and regulatory clean-up has been allowed following unloading completion of the previous train. For the purpose of determining compliance with Unloading Free Time, unloading durations shall begin at the time of Actual Placement and shall end upon SCH's notification to RR that train is released for movement. Allotted Unloading Free Time shall be extended accordingly if transloading is interrupted by any action or inaction of the RR, including but not limited to mechanical failures of RR locomotives or hopper cars. If two (2) or more trains transported by the RR approach one of the Facilities in close succession so that the following train at that Facility must wait for the preceding train to unload, the Unloading Free Time on the following train(s) shall not begin until the Unloading Free Time on the preceding train has expired. The Unloading Free Time shall not be less than twelve (12) hours per train. Prior to LGE's payment of any RR charges directly related to SCH's Facilities, LGE shall notify SCH regarding such claim in a timely manner and afford SCH an opportunity to counter the claim if warranted. SCH shall pay LGE, subject to the limitations herein, for any RR charges at Facilities paid by LGE to RR on account of any (i) delays at the Facilities in excess of the Unloading Free Time period or (ii) delays related to trains that must be constructively placed because of any condition at the Facility that requires the RR to hold the train short of actual placement, within thirty days of receipt of an invoice from LGE, which invoice shall include a copy of the RR charges assessed by the RR.

SCH agrees that it shall (a) use commercially reasonable measures to operate its Facilities, conduct transloading services hereunder, interact and communicate with the RR and its representatives in a manner so as to minimize or mitigate RR charges or disputes, and (b) actively and promptly notify Shipper regarding unloading circumstances and situations involving the risk of RR charges so as to afford Shipper an opportunity to advise or participate in the remediation or disputation of such RR charges. Promptly and contemporaneously in connection with each unloading operation, SCH shall provide Shipper with an unloading report containing relevant information regarding unloading activities and the time periods, conditions and events relating thereto, including but not limited to, data regarding train arrival; actual/constructive placement; unloading or movement delays, pauses or interruptions; train release/departure; and communications or circumstances with the RR representatives or train crew relating to such matters. SCH agrees to create, maintain and retain suitable and sufficient documentation, records and data in a manner reasonably designed to be of use in investigating and resolving RR charges or disputes.

**ARTICLE VII**

**FREEZE TREATMENT**

Shipper may, in its discretion, when weather conditions warrant, treat the Coal to prevent it from freezing and to make it free flowing to facilitate unloading. All costs related to such treatment of the coal shall be borne by the Shipper.

**ARTICLE VIII**

**COAL LOADING SPECIFICATIONS**

SCH agrees to use commercially reasonable efforts, consistent with industry best practice, to minimize loss, shrinkage or damage to Shipper's coal in the performance of SCH's activities hereunder. SCH agrees to use commercially reasonable efforts to comply with Shipper's special barge loading requirements to the extent that they are not inconsistent with or in conflict with SCH's normal barge loading operations and capabilities.

**ARTICLE IX**

**RISK OF LOSS AND LIABILITY; INDEMNIFICATION; INSURANCE**

Risk of loss of Coal, in whole or in part, shall rest with Shipper until actual delivery and acceptance of unit train load lots at the Facility and then again from the time Shipper or Shipper's barging agent actually takes possession and control of the loaded barge(s).

Risk of loss of Coal between acceptance of unit train load lots at the Facility and again from the time Shipper or Shipper's barging agent actually takes possession and control of the loaded barges shall rest:

- a) with Shipper for commercially reasonable losses or Coal shrinkage as a result of the normal handling of Coal within the Facility's coal-handling system; and
- b) with SCH for all losses attributed to the negligence, willful misconduct of SCH's employees, contractors or agents; for commercially unreasonable losses, or losses due to non-normal operation of the Facility's coal-handling system; and due to any breach or Event of default of this Agreement by SCH. SCH shall not be responsible for incidental or consequential damages resulting from loss of Shipper's Coal within the Facility.

SCH shall indemnify, save harmless, and defend Shipper and its affiliates, officers, directors, owners, agents, employees and representatives from and against any and all liabilities, expenses, losses,



claims, damages, penalties, causes of action, or suits (including without limitation any reasonable attorneys' fees and other legal costs) (collectively, "Liabilities") arising out of injuries or death to any person(s), or loss or damage to coal, barges, railcars or any property, to the extent caused by SCH's negligent acts, omissions, willful misconduct, or breach or Event of Default in its performance under this Agreement.

Shipper shall indemnify, save harmless, and defend SCH and its affiliates, officers, directors, owners, agents, employees and representatives from and against any and all liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits (including without limitation any reasonable attorneys' fees and other legal costs) and all Liabilities arising out of injuries or death to any person(s), or loss or damage to coal to coal, barges, railcars or any property, to the extent caused by Shipper's negligent acts, omissions, willful misconduct, or breach or event of default in its performance under this Agreement.

To the extent possible, known Liabilities shall be reported by SCH to Shipper or by Shipper to SCH, as the case may be, promptly following the definitive occurrence thereof, and confirmed in writing thereafter.

## **ARTICLE X**

### **INSURANCE**

SCH and Shipper agree to maintain the following types of insurance coverage at all times during the term of this Agreement:

- (a) Workers' Compensation Insurance in accordance with applicable state laws and, if applicable, coverage for maritime obligations, United States Longshoremen's and Harbor Workers' Compensation Act and liability for Admiralty Benefits and damages under the Jones Act and any other endorsements which may be appropriate for work or operations in connection with the navigable waterways of the United States, including, but not limited to, any adjoining pier, wharf, dry dock, terminal, marine railway, or other adjoining area customarily used in the loading, unloading, or repairing of a vessel or related conveyance, as Shipper may reasonably require from time to time. SCH and Shipper may self-insure, if legally permitted and qualified to self-insure in the state or jurisdiction where work is performed, in lieu of submitting proof of insurance.

- (b) Employer's Liability or Stop Gap Insurance with not less than the following minimum limits:
- (i) Bodily Injury by Accident -- \$1,000,000 each accident;
  - (ii) Bodily Injury by Disease -- \$1,000,000 each employee; and
  - (iii) Bodily Injury by Disease -- \$1,000,000 policy limit.
- (c) Commercial General Liability Insurance providing coverage for both bodily injury and property damage with limits of not less than One Million Dollars (\$1,000,000) per occurrence. Coverage must be endorsed to remove the exclusion for work within fifty (50) feet of a railroad track.
- (d) Excess (Umbrella) Liability Insurance to specifically provide excess liability protection over commercial general liability and employer's liability coverages, with minimum limits of not less than Five Million Dollars (\$5,000,000) per occurrence.

The policy or policies providing for insurance required by this Agreement, and any other policies, shall be obtained from an insurer licensed to do business in Kentucky, and shall include coverage required by this Agreement. In addition, each Party's insurance shall name the other as an additional insured, as their interests may appear, except workers' compensation.

Shipper shall furnish a certificate of insurance evidencing the above coverage's prior to entering the SCH premises.

## ARTICLE XI

### FORCE MAJEURE

Neither Party shall be subject to liability to the other Party for failure or inability to perform in conformity with this Agreement where such failure or inability results from an event or occurrence beyond the reasonable control of the Party affected thereby, or of any coal company, railroad, and / or barge company under contract with such Party and without the negligence or fault of the Party affected thereby (other than obligations of such Party to pay or expend monies for or in connection with the performance of such Party's duties and responsibilities under this Agreement), such as, but not limited to, acts of God, war, insurrection, riots, strikes, labor disputes, labor or material shortages, fires, explosions, unanticipated geological conditions, floods, river freeze-ups, breakdown or damage to mines, plants,

equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), delays or interruptions to railroad transportation, barge transportation, or mine operations, embargoes, orders or acts of civil or military authority, laws, regulations or administrative rulings ("Force Majeure"). The affected party shall give written notice to the other party as early as practicable of the existence, nature and probable duration of the Force Majeure Event and makes commercially reasonable efforts to mitigate or terminate the cause of the Force Majeure Event.

If an event of Force Majeure persists for (i) a continuous period of sixty (60) days or (ii) an aggregate of ninety (90) days in any twelve (12) month period, then at any time thereafter during the Force Majeure period, the Party not claiming Force Majeure shall have the option, upon five (5) days' prior written notice, to terminate this Agreement and the obligations of the Parties hereunder. A Party's right to terminate this Agreement under this Article shall not operate to limit the right to terminate this Agreement pursuant to any other provision hereof.

The above requirement that any Force Majeure event be mitigated or terminated by commercially reasonable efforts shall not require significant or extraordinary capital or operating expenditures, commercially unreasonable actions, or the settlement of labor disputes, strikes, and lockouts except on terms or in amounts acceptable to the Party having the difficulty in its sole discretion. The coal mines, railroads, and barge companies currently used by Shipper to provide and transport coal mined, shipped to, and shipped from the Facility in connection with this Agreement are: Black Thunder Mine, Burlington Northern Railway Company and Crouse Corporation. Coal transloaded under this Agreement is currently destined for Shipper's Trimble County Unit 2. These mines, railroads, barge companies and destination plants are identified herein for the sake of completeness and may change from time to time, and their identification in the immediately preceding sentence is not intended to limit the scope of this Article XI.

## ARTICLE XII

### **INDEPENDENT CONTRACTOR**

SCH is an independent contractor and shall not be deemed an agent of Shipper by this Agreement. Shipper shall not become an agent of SCH by this Agreement and may not hold itself out to any person as an agent of SCH. Nothing contained in this Agreement shall be construed to constitute any Party as the employee, agent, partner, or joint venture of the other Party hereto.

**ARTICLE XIII**

**ASSIGNMENT**

Neither Party shall assign this Agreement in whole or in part without the prior written consent of the other Party, which consent shall not be unreasonably withheld. The parties acknowledge that Shipper's performance of its obligations in this Agreement may be performed by one or more agents, including without limitation "LG&E and KU Services Company", which agency relationship shall not release Shipper from its' liability obligations hereunder.

**ARTICLE XIV**

**NO WAIVER; NO THIRD PARTY BENEFICIARIES**

Failure by either Party hereto to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall not constitute a waiver of any other breach of such covenant, agreement, term or condition or any other covenant, agreement, term or condition hereof.

This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted successors and assigns, and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with this Agreement.

**ARTICLE XV**

**MODIFICATION**

All amendments or changes in this Agreement shall be by written instrument executed by both Parties hereto; no oral modifications or amendments shall be binding upon either Party.

**ARTICLE XVI**

**PAYMENT**

Shipper shall pay SCH by wire transfer in United States Dollars for transloading services performed hereunder for Coal delivered by Shipper to the Facility.

Shipper shall make payment to SCH based upon SCH's monthly invoice covering Coal transloaded during the previous month within twenty (20) calendar days after Shipper's receipt of SCH's invoice. For the purpose of this Agreement, "month" shall mean a calendar month. If Shipper in good faith reasonably disputes an invoice, it shall provide SCH with a written explanation specifying in detail the basis for the dispute and shall pay SCH any undisputed portion of the invoice no later than the due date. Shipper shall not be deemed in breach of this Agreement for failure to pay any charges disputed in

good faith. Upon resolution of any disputed charges, any additional amount owing shall be paid within five (5) calendar days of resolution.

Shipper shall electronically transfer funds via ACH to SCH's Account based on the account information (including Bank name, ABA number and Account Number) provided in writing, in a form reasonably acceptable to Shipper, prior to the first (1<sup>st</sup>) Shipment under this Agreement. SCH reserves the right to modify such account information on prior written notice reasonably acceptable to Shipper.

## ARTICLE XVII

### FINANCIAL RESPONSIBILITY

17.1 **Performance Assurance.** Either Party shall have the right, but not the obligation, to request from the other Party and/or its guarantor, as applicable, audited annual financial statements and unaudited quarterly financial statements. In the event a Party's financial statements are filed with the Securities and Exchange Commission and are available at [www.sec.gov](http://www.sec.gov), then such Party has fulfilled its obligations hereunder. In the event the performance, creditworthiness or financial condition of either Party becomes unsatisfactory to the other Party at any time during which this Agreement is in effect, in its reasonable commercial judgment, that Party ("Demanding Party") may demand security or assurance of performance in the form of one or more Letters of Credit ("Performance Assurance") before further deliveries or receipts are made by the Demanding Party under this Agreement. In the event the other Party (a "Demand Receiving Party") shall fail to give the required Performance Assurance within five (5) Business Days of the request by the Demanding Party, that failure shall be an Event of Default of the Demand Receiving Party as described in Article 18.1 of this Agreement. Such Performance Assurance shall in no event exceed the total value of two (2) months obligations hereunder.

*"Letters of Credit"* means one or more irrevocable, transferable, standby letter of credit, issued by a major United States commercial bank or the United States branch office of a foreign bank, reasonably acceptable to the beneficiary with, in either case, a senior unsecured credit rating of at least (a) "A-" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), and "A3" by Moody's Investors Service, Inc. ("Moody's"), if such entity is rated by both S&P and Moody's or (b) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's, but not both.

- 17.2 **Netting and Setoff.** If Shipper and SCH are required to pay any amounts in the same month under this Agreement, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount shall pay to the Party owed the difference between the amounts owed. Each Party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such Party has or may be entitled to with respect to this Agreement (whether by operation of law or otherwise). The obligations to make payments under this Agreement may be offset against each other, set off or recouped therefrom.
- 17.3 **Grant of Security Interest.** To secure its obligations under this Contract and to the extent either or both parties deliver Performance Assurance hereunder, each party (a "Pledgor") hereby grants to the other party (the "Secured Party") a present and continuing first priority secured interest in, and lien on (and right of recoupment and set-off against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, which shall be limited to the monetary value from the Performance Assurance, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each party agrees to take such action as the other party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of recoupment and/or setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof, subject to existing financing.

## ARTICLE XVIII

### **EVENTS OF DEFAULT; REMEDIES**

- 18.1 **Events of Default.** An "Event of Default" shall mean, with respect to a Party (the "Defaulting Party"):
- (a) the failure by the Defaulting Party to make, when due, any undisputed payment, required under this Agreement if such failure is not remedied within three (3) Business Days after written notice of such failure is given to the Defaulting Party; or
  - (b) the failure of the Defaulting Party to provide financial statements as provided for in Section 17.1; or

- (c) if any representation or warranty made by a Party shall prove to have been false or misleading in any material respect when made; or
- (d) the failure by the Defaulting Party to perform in any material respect any covenant or condition set forth in this Agreement (other than its obligations to make any payment or obligations which are otherwise specifically covered in this paragraph as a separate Event of Default), and such failure is not cured within ten (10) Business Days after written notice is given to the Defaulting Party; or
- (e) if the Defaulting Party shall:
  - (i) make an assignment or any general arrangement for the benefit of creditors;
  - (ii) file a petition or otherwise commence, authorize or acquiesce in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or have such petition filed against it;
  - (iii) otherwise become bankrupt or insolvent (however evidenced); or
  - (iv) be unable to pay its debts as they fall due.

18.2 **Remedies.** Notwithstanding any other provision of this Agreement or any other remedy provided for herein, if an Event of Default occurs with respect to either Party at any time during the term of this Agreement, the other Party (the "Non-Defaulting Party") may (A) terminate this Agreement, and/or (B) withhold any payments due in respect of this Agreement, and /or (C) exercise such other remedies as may be available at law or in equity or as otherwise provided in this Agreement. Each Party agrees that it has a duty to reasonably mitigate damages. Neither Party shall be liable to the other for any incidental, consequential, punitive or special damages in connection with the performance of this Agreement.

18.3 **Shipper's Liability.** In the event Shipper causes an Event of Default specified in Section 18.1 above and SCH elects to terminate this Agreement, the Parties shall calculate the termination payment as the sum of (a) any undisputed transloading cost owed by Shipper under this Agreement for which SCH has not been paid; plus (b) any other undisputed amounts owed to SCH by Shipper arising under this Agreement; less (c) any undisputed amounts owed to Shipper

by SCH arising under this Agreement. This provision shall not be construed to limit any other remedies SCH may have upon Shipper's default.

18.4 **SCH's Liability.** In the event SCH causes an Event of Default specified in Section 18.1 above and Shipper elects to terminate this Agreement, the Parties shall calculate the termination payment as the sum of (a) any undisputed amounts owed to Shipper by SCH arising under this Agreement; less (b) any undisputed amounts owed to SCH by Shipper arising under this Agreement. This provision shall not be construed to limit any other remedies Shipper may have upon SCH's default.

## ARTICLE XIX

### NOTICE

Notices shall be in writing and delivered by hand or electronic means or transmitted by facsimile or sent by postage prepaid, certified mail, return receipt requested, or by overnight mail or courier. Notices hand delivered or delivered by electronic means shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered after close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. Eastern Prevailing Time on a Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by postage prepaid, certified mail, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon receipt. A party may change its address by providing notice thereof in accordance with this Article. As used herein, a "Business Day" means a day on which Federal Reserve member banks in Louisville, Kentucky are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.

Any notice required by this Agreement shall be sent to the other party to the attention of the respective representatives at the respective office addresses, with reference to contract "J18007" as set forth below:



If to SCH:

SCH Services, LLC  
1650 Murfreesboro Road, Suite 125  
Franklin, TN 37067  
Attention: Manager of Marketing  
[dshemonic@sch-ces.com](mailto:dshemonic@sch-ces.com) and [jhuntjr@sch-ces.com](mailto:jhuntjr@sch-ces.com)

If to Shipper:

Louisville Gas and Electric Company/Kentucky Utilities Company  
220 West Main Street  
P.O. Box 32010  
Louisville, Kentucky 40232  
Attn: Director Corporate Fuels and By Products  
[Caryl.Pfeiffer@lge-ku.com](mailto:Caryl.Pfeiffer@lge-ku.com)

#### ARTICLE XX

##### ENTIRE AGREEMENT

This Agreement as executed, constitutes the entire agreement and understanding between the Parties hereto with respect to the subject matter hereof, and except as referred to herein, there are no further or other agreements or understandings, written or oral, between the Parties relating to the subject matter of this Agreement.

#### ARTICLE XXI

##### GOVERNING LAW; WAIVER OF JURY TRIAL

This Agreement shall be deemed to have been made in the Commonwealth of Kentucky and shall be governed by and construed according to the applicable law of the Commonwealth of Kentucky.

**EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.**

**ARTICLE XXII**  
**CONFIDENTIALITY**

The Parties shall keep confidential the terms and conditions hereof, the transactions provided for herein, and any documents or other information delivered in connection herewith unless readily ascertainable from public information or sources, requested by a regulatory commission, or required by law to be disclosed.

**ARTICLE XXIII**  
**INTERPRETATION**

The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the Agreement shall be construed as mutually drafted. All headings herein are for convenience of reference purposes only.

**ARTICLE XXIV**  
**COUNTERPARTS; SURVIVAL; SEVERABILITY**

This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and applicable order of any court or regulatory body having jurisdiction, such decision shall not affect the validity of the remaining portions, and the remaining portions shall remain in effect as though this Agreement had been executed without the invalid portion. In the event any provision of this Agreement is declared invalid, the Parties shall promptly renegotiate to restore this Agreement as near as possible to its original intent and effect.


Notwithstanding any termination or expiration of this Agreement, any obligation by either Party hereto which by its terms has or may have application after the termination or expiration of this Agreement and has not been fully performed or observed, shall survive such termination or expiration.

**ARTICLE XXV  
SEVERAL LIABILITY**

LG&E and KU shall be severally but not jointly liable to SCH for obligations of Shipper, hereunder in the ratio of LG&E 19% and KU 81%. Such several liability shall not preclude any separate allocation, right of contribution or indemnity, solely as between LG&E and KU against each other; provided such separate allocation, right of contribution or indemnity has no impact on this Agreement and amounts billed to and owed by Shipper to SCH.

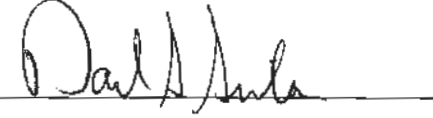
**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their fully authorized representatives as of the day and year first above written.

**SCH SERVICES, LLC**

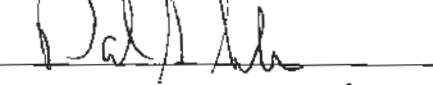
By:   
Its: CEO

SCH Services, LLC  
individually and as Agent  
for Four Rivers Terminal, LLC and  
Calvert City Terminal, LLC

**LOUISVILLE GAS AND ELECTRIC  
COMPANY**

By:  *ett*  
Its: VP Energy Supply & Analytics *APP*

**KENTUCKY UTILITIES COMPANY**

By:  *ett*  
Its: VP Energy Supply & Analytics *APP*