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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION  
CIVIL ACTION NO. 3:06 CV 178-H

LOUISVILLE GAS AND ELECTRIC COMPANY

PLAINTIFFS

AND

KENTUCKY UTILITIES COMPANY

v.

BECHTEL POWER CORPORATION

DEFENDANTS

**Serve:**

CT Corporation System  
Registered Agent for Bechtel Power Corporation  
Kentucky Home Life Building  
Louisville, KY 40202

\* \* \* \* \*

**DECLARATORY JUDGMENT COMPLAINT**

Plaintiffs Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU")(also collectively, "Plaintiffs"), for their Declaratory Judgment Complaint against Defendant Bechtel Power Corporation ("Bechtel"), show as follows:

**NATURE OF THE ACTION**

1. This is an action, pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, et seq. and Rule 57 of the Federal Rules of Civil Procedure to the declare the contractual rights of LG&E, KU, and Bechtel concerning the Engineering, Procurement and Construction Agreement between the parties.

2. The legal question presented for decision is whether the Engineering,

Procurement and Construction Agreement described below, which governs the parties' respective rights and interests with respect to certain prospective construction work, is a valid and binding contract.

### **THE PARTIES**

3. Plaintiff Louisville Gas & Electric Company ("LG&E") is a Kentucky corporation with its principal office in Louisville, Kentucky. LG&E is an electricity and gas utility serving customers in Louisville and sixteen surrounding counties. LG&E is a wholly-owned subsidiary of E.ON U.S. LLC ("E.ON") (formerly known as LG&E Energy LLC).

4. Plaintiff Kentucky Utilities Company ("KU") is a Kentucky corporation with a principal place of business in Lexington, Kentucky. KU is a wholly-owned subsidiary of E.ON U.S. LLC ("E.ON") (formerly known as LG&E Energy LLC).

5. Upon information and belief, Bechtel Power Corporation ("Defendant") is a Nevada corporation, having its principal place of business at 50 Beale Street, San Francisco, California, 94105. Defendant may be served through its registered agent, CT Corp. System Kentucky, Home Life Building, Louisville, Kentucky 40202.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 1332, as the dispute is between corporations that are citizens of different states and the amount in controversy is in excess of \$75,000.00, based upon the economic impact that will result to LG&E and KU in the absence of declaratory relief.

7. This Court has personal jurisdiction over Defendant pursuant to the Kentucky Long-Arm Statute, because it entered into substantial business contracts with LG&E and KU in Kentucky which are the subject of this action for a declaratory

judgment. In addition, this Court has personal jurisdiction over Defendant because, on information and belief, Defendant has conducted business in this District, has a registered agent for service of process in this District, and has otherwise made or established contacts within this District such that personal jurisdiction is consistent with Kentucky law and the United States Constitution.

8. Venue is proper in the Western District of Kentucky pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to this action occurred in this District.

### UNDERLYING FACTS

9. On December 22, 2005, LG&E and KU (as owners and as agents of other owners) and Defendant (as contractor) entered into an agreement referred to as the “Design Development Agreement” (hereinafter “DDA”). A true and correct copy of the DDA (including the Engineering, Procurement and Construction Agreement [hereinafter the “EPC Agreement”], which is a schedule to the DDA), is attached hereto as Exhibit “A.”

10. By the terms of the DDA, Bechtel made an irrevocable offer to Plaintiffs to engineer, procure and construct a power plant on terms and conditions either final at the time of the execution of the DDA, or as to which the DDA provided a mechanism for finalizing those terms. See Ex. A, ¶ 4.3 et seq.

11. The DDA also granted LG&E and KU the right to accept Bechtel’s offer at any time, even if certain provisions were not yet finalized. See id., ¶ 5.0.

12. On April 3, 2006, by notice to Bechtel, LG&E and KU accepted Bechtel’s offer.

**CLAIM FOR RELIEF**  
**Declaration of Rights**

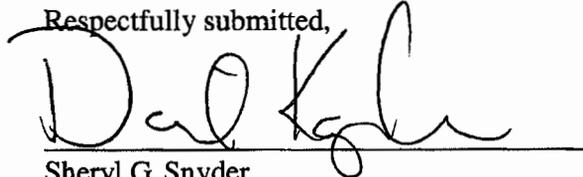
13. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-12 as if fully set forth herein.

14. Pursuant to 28 U.S.C. § 2201, LG&E and KU are entitled to a declaration of the rights and legal relations of the parties based on the foregoing and is entitled to a declaratory judgment that the EPC Agreement is a valid and binding contract.

WHEREFORE, Plaintiffs pray for the following relief:

1. A judgment declaring that the EPC Agreement is a valid and binding contract.
2. An award of costs incurred by Plaintiffs in connection with this litigation.
3. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,



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