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Senior Counsel

VIA OVERNIGHT MAIL

January 18, 2006

Ms. Brenda Talley
Division of Filings
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RECEIVED

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PUBLIC SERVICE
COMMISSION

Re: In the Matter of the Application of The Union Light, Heat and Power Company
for an Order to Enter into up to \$25,000,000 Principal Amount of Capital Lease
Obligations, Case No. 2004-00435

Dear Ms. Talley:

I have enclosed a copy of a lease entered into between Edward Gary Leasing and The Union Light, Heat and Power Company ("ULH&P") for a building located at 1262 Cox Avenue in Erlanger, Kentucky. ULH&P entered into this lease to use the building as a construction and maintenance center, to replace the construction and maintenance center at 7200 Industrial Road, Florence, Kentucky, which ULH&P sold pursuant to authority granted in the Commission's July 28, 2005 Order in Case No. 2005-00199.

Under the Commission's December 17, 2004 Order in the present case, ULH&P is required to file this lease with the Commission. Although Cinergy's Administrative Services Department executed the lease on August 8, 2005, the lease was not determined to be a capital lease until recently, when Cinergy's Accounting Research Department reviewed the transaction as part of its accounting oversight activity in compliance with the Sarbanes-Oxley Act. Accordingly, ULH&P is now filing this lease with the Commission. The information required by the Commission's December 17, 2004 Order is as follows:

Starting Date of Lease:	October 1, 2005
Period of Lease:	October 1, 2005 through September 30, 2020
Description of Property:	Triple net lease consisting of 92,457 square foot warehouse building and parking area

Name / Address of Lessor: Edward Garry Leasing
3633 Olive Branch Road
Greenwood, Indiana 46143

Dollar Amount of Lease: Years 1-5: \$245,011.05/year
Years 6-10: \$249,633.90/year
Years 11-15: \$254,256.75/year
Plus taxes, insurance and maintenance expenses

Interest Rate: There is no stated interest rate in the lease. The implied interest rate is 8.6%.

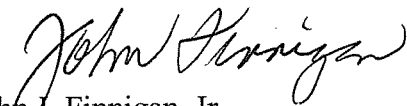
Fees and Expenses: ULH&P pays taxes, insurance and maintenance expenses

Participation Agreements: None

Please accept this capital lease agreement for filing. Enclosed you will find two additional copies to be stamped and returned in the postage paid envelope.

Thank you for your cooperation in this matter.

Very truly yours,


John J. Finnigan, Jr.
Senior Counsel

JJF/sew

**LEASE
BETWEEN
EDWARD GARRY LEASING
AS LESSOR**

AND

**THE UNION LIGHT, HEAT AND POWER COMPANY
AS LESSEE**

COMMERCIAL TRIPLE NET LEASE

THIS LEASE ("Lease"), made this 9th day of AUGUST, 2005 (the "Effective Date"), by and between EDWARD GARRY LEASING, an INDIANA LIMITED company (hereinafter referred to as "Lessor") and THE UNION LIGHT, HEAT AND POWER COMPANY, a Kentucky corporation (hereinafter referred to as "Lessee").

LIABILITY WITNESSETH

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Lease, Lessor and Lessee agree to the terms and conditions as set forth herein below as follows:

ARTICLE I
Premises; Common Areas

Lessor hereby lets to Lessee, and Lessee hereby leases from Lessor, subject to the terms, covenants, conditions and provisions of this Lease, in the Building as set out in Article II (hereinafter called the "Premises"). In addition, Lessee and its business invitees, employees, and customers shall have the exclusive right to use the hallways, stairs, parking areas, driveways lobbies, and other public areas, if any, ("Common Area"), subject to such reasonable regulations as Lessor may impose.

ARTICLE II
Definitions

The following listed terms shall have the meanings set forth:

- (a) **Building:** The structure commonly known as the Erlanger, Kentucky Building located at 1262 Cox Avenue and any replacement, reconstruction or restoration thereof, located on the real estate described in Exhibit A.
- (b) **Floor Area:** 92,457 rentable square feet in Building, as designated in the floor plan attached as Exhibit B.
- (c) **Term:** One Hundred Eighty (180) months. Any extensions or renewals of this Lease shall be included in the use of Term wherever applicable.
- (d) **Commencement Date:** October 1, 2005
- (e) **Expiration Date:** September 30, 2020
- (f) **Lessee Construction Build-out:** Lessor shall carry note for Build-out up to \$3,500,000 at its bank rate plus 1.5%. The note will be paid in full no later than the end of the Term.
- (g) **Lessee's Business:** Utility
- (h) **Security Deposit:** NONE
- (i) **Space Plan Approval Date:** N/A
- (j) **Rent:** Years 1-5 \$2.65 per sq. ft. years 6-10 \$2.70 per sq. ft years 11-15 \$2.75 per sq. ft. per year.
- (k) **Lessor's Mailing Address:** Edward Garry Leasing
3633 Olive Branch Rd.
Greenwood, IN 46143

(A) Taxes shall mean all taxes of every kind and nature which Lessor shall pay or become obligated to pay in respect of a calendar year because of or in connection with the ownership, leasing and operation of the Building and the Property, subject to the following:

(1) the amount of ad valorem real and personal property taxes (including service payments in lieu of taxes) against Lessor's real and personal property. The amount of any tax refunds shall be deducted from Taxes in the year they are received by Lessor, provided that to the extent any tax refunds are received by Lessor for Taxes paid by Lessee under this Lease, such tax refund shall promptly be returned to Lessee so long as there are no uncured defaults by Lessee under this Lease. The foregoing sentence shall survive expiration or termination of this Lease;

(2) the amount of any tax or excise levied by the Federal, Commonwealth of Kentucky or by the City of Erlanger, any political subdivision of either, or any other taxing body, on rents or other income from the Property to be included shall not be greater than the amount which would have been payable on account of such tax or excise by Lessor during the calendar year in respect of which Taxes are being determined had the income received by Lessor from the Building been the sole taxable income of Lessor for such calendar year. If at any time during the Term the method of taxation then prevailing shall be altered so that any new tax, assessment, levy or charge or any part thereof shall be imposed upon Lessor in place of any Operating Expense heretofore defined and shall be measured by or be based in whole or in part upon the Premises or the rents or other income therefrom, then all such new taxes, assessments, levies or charges or part thereof, to the extent that they are so measured or based, shall constitute Operating Expense for purposes hereof, and Lessee shall pay and discharge the same as herein provided with respect to Operating Expense so long as such charge is not a result of negligence of Lessor or Lessor's assignees;

(3) there shall be excluded from Taxes all income taxes [except those which may be included pursuant to subparagraph (2) above], excess profits taxes, franchise, capital stock, capital gains, and inheritance or estate taxes.

(B) Operating Expenses for any calendar year, shall mean all unreimbursed expenses, costs and disbursements (other than Taxes) of every kind and nature which Lessor shall pay or become obligated to pay in respect of a calendar year because of ownership, management and operation of Building and the Property, except the following:

(1) costs of capital improvements, except for such costs as reasonably amortized by Lessor, where one of the purposes of such capital improvements was to improve Building operating efficiency and where such capital improvements are required from time to time by government authorities, but not as a result of Lessor's violation of existing laws or regulations;

(2) depreciation, interest and principal payments on mortgages, and other debt costs, if any;

(3) real estate brokers' leasing commissions or compensation;

(4) costs of Lessor's related general corporate functions, and management of other buildings or properties;

(5) penalties and interest incurred as a result of Lessor's failure to timely make payments when due;

(6) wages, salaries or other compensation paid to any executive officers of Lessor or to any other person not directly involved with the management and operation of the Building;

(7) costs incurred to correct structural defects or in the materials and workmanship in the Building or in the Lessee Improvements being installed by Lessor for Lessee in the Premises;

ARTICLE VII
Electricity

Lessee shall have the right to make alterations or additions to the electric equipment or installations as required by Lessee. All work shall be done at Lessee's expense in accordance with plans and specifications of Lessee.

Lessor shall in no way be liable or responsible for any loss, damage, or expense that Lessee may sustain or incur solely by reason of any change, failure, interference, disruption, or defect in the supply or character of the electric energy furnished to the Premises, or if the quantity or character of the electric energy supplied by the Electric Service Provider or any Alternate Service Provider is no longer available or suitable for Lessee's requirements, no such change, failure, defect, unavailability, or unsuitability (as to any one of them, "change") shall constitute an actual or constructive eviction, in whole or in part, or entitle Lessee to any abatement or diminution of Rent, or relieve Lessee from any of its obligations under this Lease. However, in the event a change continues for a period of more than ten (10) consecutive days or continues for more than thirty (30) non-consecutive days in any six (6) month period during the Term and as such renders all or a material part of the Premises unsuitable for Lessee's purposes for entering into this Lease, Lessee shall have the option to terminate this Lease without being in default or breach. In the event Lessee exercises its right to terminate this Lease as provided in the preceding sentence, the obligation to pay all Rent and all other costs and expenses due shall abate and terminate as of the date Lessee vacates. To the extent such a change is the result of the intentional conduct or gross negligence of Lessor or of Lessor's agents, employees or contractors, Lessee, in addition to the right to terminate, may pursue an action against Lessor for damages or any other remedies Lessee may have at law or in equity.

All applications and connections for necessary utility services on the Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for sewage, water, gas, electricity, and telephone services.

ARTICLE VIII
Condition of Premises

The Lessee's taking possession of the Premises shall be conclusive evidence against the Lessee that the Premises were in good order and satisfactory condition when the Lessee took possession, except as to latent defects and as to matters which Lessee notifies Lessor in writing within ten (10) days of its taking possession. No promise of the Lessor to alter, remodel, repair or improve the Premises or the Building and no representations respecting the condition of the Premises or the Building have been made by the Lessor to the Lessee, other than as may be contained herein in Article II, Item F of the Lease, which is incorporated herein by this reference.

ARTICLE IX
Repairs

Lessee shall, at its sole expense, keep the Premises in good repair and in a clean condition and fully comply at all times with all Requirements and shall keep the Premises and Adjacent Facilities safe and secure and in full conformance with the Requirements, including, but not limited to, the lawful and valid requirements of any municipality in which such Premises may be situated and of all other public authorities, and shall make, at Lessee's own expense, all additions, improvements, alterations and repairs on the Premises and on and to the Improvements, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unseen, required by any lawful authorities or to keep the Premises in good repair or which may be made necessary by the act or neglect of any person or corporation (public or private), including supporting the streets and alleys adjoining the Premises, and, to the fullest extent permitted by law, Lessee shall keep Lessor harmless and indemnified at all times against any loss, damage, cost or expense by reason of the failure so to do in any respect or by reason of any accident, loss or damage resulting to persons or property from any use which may be made of such Premises or of any Improvements or by reason of or growing out of any act or thing done or omitted to be done upon such Premises or in any Improvements; and Lessee agrees that it shall save, hold and keep Lessor and the Premises free and clear of and from any and all claims, demands, penalties, liabilities, judgments, costs and expenses (including, but not limited to, attorneys' fees), arising out of any loss or damage which may be sustained by adjoining property or adjoining owners or other persons or property in connection with the remodeling, altering, erection, or repairing of the Improvements, except to the extent occasioned by the acts of Lessor, its agents, employees or contractors.

(4) A surety company completion bond, in form and from an insurer satisfactory to Lessor, issued by an insurer licensed to do business in the State in which the Premises are located, guaranteeing the full completion of the work and payment therefore within a reasonable time, free and clear of all mechanics' or similar liens, encumbrances, chattel mortgages, conditional bills of sale and other charges, in accordance with the plans and specifications approved by Lessor, or other security satisfactory to Lessor, in Lessor's sole discretion.

(B) Lessee shall (1) at its expense carry or cause to be carried the necessary worker's compensation insurance and cause the insurance policies required under the Section entitled Insurance to be endorsed to cover the additional risk during the course of the work, and (2) procure all necessary permits from all governmental agencies and departments having jurisdiction in connection with such work. Lessee shall deliver evidence of compliance with the foregoing requirements to Lessor prior to the commencement of the work. Whenever requested by Lessor during the period of work, Lessee shall cause the architect in charge of the work (or if there is no architect in charge, the general contractor performing the work) to report in writing to Lessor as to whether the work is being done promptly and in a good and workmanlike manner, and in substantial compliance with the plans and specifications for the work. Lessee shall also deliver to Lessor copies of any and all interim or progress certificates or other reports submitted by Lessee's architect, engineer or contractor.

(C) The Capital Improvements shall be made promptly, in a first-class and workmanlike manner, in compliance with all Requirements and shall not lessen the value of the Premises. All Capital Improvements will be Lessee's sole cost and responsibility.

ARTICLE XI Covenant Against Liens

Nothing contained in this Lease shall authorize Lessee to do any act which shall in any way encumber Lessor's title to the Building or Premises, nor in any way subject Lessor's title to any claims by way of lien or encumbrance whether claimed by operation or law or by virtue of any express or implied contract of Lessee, and any claim to a lien upon the Building or Premises arising from any act or omission of Lessee shall attach only against Lessee's interest and shall in all respects be subordinate to Lessor's title to the Building and Premises. If Lessee has not removed or bonded any such lien or encumbrance within fifteen (15) days after written notice to Lessee by Lessor, Lessor may pay the amount necessary to remove such lien or encumbrance, without being responsible for making any investigation as to the validity thereof, and the amount so paid shall be deemed additional rent reserved under this Lease and shall be due and payable immediately forthwith upon Lessor's notice to Lessee.

ARTICLE XII Damage or Destruction by Fire or Casualty

If the Premises or the Building (including machinery and equipment used in its operation) shall be destroyed or damaged by fire or other casualty and if the Premises or Building in Lessor's judgment can reasonably be repaired and restored at Lessor's expense using available insurance proceeds, within one hundred and twenty (120) days (plus such additional time during which Lessor may be prevented from completing the repairs for causes beyond its reasonable control) after such damage then Lessor shall within thirty (30) days from the date of casualty have the option to: (A) commence to repair and restore the same, including the Lessee Improvements, with reasonable promptness; or (B) elect to demolish the Building, or cease its operation, in which event this Lease shall automatically be canceled and terminated as of the date of such damage.

If such damage renders the Premises untenable, in whole or in part, and if, in Lessor's judgment, such damage cannot reasonably be repaired and restored within one hundred and twenty (120) days (plus such additional time during which Lessor may be prevented from completing the repairs for causes beyond its reasonable control) either party shall have the right to cancel and terminate this Lease as of the date of such damage.

In the event any such damage renders the Premises untenable and if this Lease shall not be canceled and terminated by reason of such damage, Lessor agrees to repair and restore the same with reasonable promptness. In the event any such damage not caused by the intentional act or negligence of Lessee its agents, servants, employees,

against by such party under the terms of standard fire and extended coverage insurance policies, regardless of cause or origin, including negligence of the other party hereto its agents or employees, and covenants that no insurer shall hold any right of subrogation against such other party.

ARTICLE XVI
Condemnation

If the whole or any substantial part of the Premises or of the Building shall be taken or condemned by any competent authority for any public use or purpose or if any adjacent property or street shall be condemned or improved in such manner as to require the use of any part of the Premises or of the Building, the Term, at the option of Lessor or Lessee, shall end upon the date when the possession of the part so taken shall be required for such use or purpose and Lessor shall be entitled to receive the entire award for the building without any payment to Lessee providing such award does not preclude Lessee from seeking its own award for loss of the Premises and provided however that if the whole Building and/or Premises is/are condemned, the termination of this Lease is automatic as of the date possession is delivered to the condemning authority. Lessee shall have its own right to seek award from the condemning authority.

ARTICLE XVII
Waivers

Lessee for itself, and on behalf of any and all persons claiming through or under it, including creditors of all kinds, does hereby waive and or by reason of any present or future law to redeem the Premises or to have a continuance of this Lease for the Term hereby demised after having been disposed or ejected therefrom by process of law or under the terms and conditions of this Lease or after the termination of this Lease as herein provided.

ARTICLE XVIII
Nonwaiver

The waiver by Lessor or Lessee of any term, covenant, agreement, or condition contained in this Lease shall not be deemed to be a waiver of any subsequent breach of the same or of any other term, covenant, agreement, condition, or provision of this Lease. Nor shall any custom or practice which may develop between the parties in the administration of the Lease be construed to waive or lessen the right of Lessor or Lessee to insist upon the performance by the other in strict accordance with all of the terms, covenants, agreements, conditions, and provisions of the Lease. The subsequent acceptance by Lessor or any payment owed by Lessee to Lessor under the Lease, or the payment of Rent by Lessee, shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, agreement, condition, or provision of the Lease, other than the failure of Lessee to make the specific payment so accepted by Lessor, regardless of Lessor's or Lessee's knowledge of such preceding breach at the time of the making or acceptance of such payment.

ARTICLE XIX
Defaults/Lessor's Remedies

If default shall be made in the payment of the Base Rent, Additional Expenses, or any installment thereof, or in the payment of any other sum required to be paid by Lessee under this Lease and such default shall continue for ten (10) business days after written notice to Lessee, or such default shall be made in the performance of any of the other covenants or conditions which Lessee is required to observe and perform and such default shall continue for twenty (20) days (plus such additional time to complete the cure of the default) after written notice to Lessee, or if the interest of Lessee in this Lease shall be levied on under execution or other legal process, or if any petition shall be filed by or against Lessee to declare Lessee a bankrupt or to delay, reduce or modify Lessee's debts or obligations, or if any petition shall be filed or other action taken to reorganize, if Lessee be a corporation or other entity, or if Lessee be declared insolvent according to law or if any assignment of Lessee's property shall be made for the benefit of creditors, or if a receiver or trustee is appointed for Lessee or its property or if Lessee shall abandon the Premises during the Term of the Lease, then Lessor may treat the occurrence of any one or more of the foregoing events as a breach of this Lease, and thereupon at its option may, without further notice or demand of any kind to Lessee or any other person, have any one or more of the following described remedies in addition to all other rights and remedies provided at law or in equity:

consultant fees, court cost, etc. If default shall be made in the payment of the Base Rent, Additional Expenses, or any installment thereof, or in the payment of any other sum required to be paid by Lessee under this Lease and such default shall continue for five (5) business days after written notice to Lessee, and such default shall be made in the performance of any of the other covenants or conditions which Lessee is required to observe and perform and such default shall continue for twenty (20) days (plus such additional time to complete the cure of the default) after written notice to Lessee, or if the interest of Lessee in this Lease shall be levied on under execution or other legal process, or if any petition shall be filed by or against Lessee to declare Lessee a bankrupt or to delay, reduce or modify Lessee's debts or obligations, or if any petition shall be filed or other action taken to reorganize, if Lessee be a corporation or other entity, or if Lessee be declared insolvent according to law or if any assignment of Lessee's property shall be made for the benefit of creditors, or if a receiver or trustee is appointed for Lessee or its property or if Lessee shall abandon the Premises during the Term of the Lease, then Lessor may terminate this Lease and the Term created hereby, in which event Lessor may forthwith repossess the Premises and be entitled to recover forthwith as damages a sum of money equal to the present value of the remaining Base Rent to be paid by Lessee for the remaining Term of the Lease, less the fair rental value of the Premises for the same period, and any other sum of money and damages owed by the Lessee to Lessor.

ARTICLE XXI
Surrender of Possession

On or before the date this Lease and the Term hereby created terminates, or on or before the date Lessee's right of possession terminates, whether by lapse of time, breach of this Lease, or at the option of Lessor, provided the Lease is not extended, renewed or becomes a month to month tenancy, Lessee shall:

(A) peaceably yield up the Premises and all alterations and additions thereto in good order, repair and condition, reasonable wear and tear and damage from an insured casualty or condemnation excepted, first removing all goods and effects of Lessee. Lessee may remove any trade fixtures installed at Lessee's expense so long as Lessee repairs any damage caused by such removal;

(B) treat such failure or refusal to surrender as conclusive evidence, on which Lessor shall be entitled absolutely to rely and act, that Lessee has forever abandoned such personal property, and without accepting title thereto, Lessor may, at Lessee's expense, remove, store, destroy, discard or otherwise dispose of all or any part thereof in any manner that Lessor shall choose without incurring liability to Lessee or to any other person. In no event shall Lessor ever become or accept to be charged with the duties of a bailee (either voluntary or involuntary) of any personal property, and the failure of Lessee to remove all personal property from the Premises and the Building shall forever bar Lessee from bringing any action or from asserting any liability against Lessor with respect to any such property which Lessee fails to remove. If Lessee shall fail or refuse to surrender possession of the Premises to Lessor on or before the above specified date, Lessor may forthwith re-enter the Premises and repossess itself thereof as of its former estate and remove all persons and effects therefrom, through operation of law, without being guilty of any manner of trespass or forcible entry or detainer.

ARTICLE XXII
Laws, Ordinances and Requirements of Public Authorities

Lessee and Lessor shall operate the Premises and Building respectively in compliance with all applicable federal, state, and municipal laws, ordinances and regulations and shall not knowingly, directly or indirectly, make any use of the Premises or Building which is prohibited by any such laws, ordinances or regulations. If Lessor or Lessee should desire to contest the validity of any such law, rule, regulation, ordinance, order or direction with which Lessor is obligated to comply, Lessor or Lessee may, at its expense, carry on such contest.

If Lessee or Lessor receives written notice of any violation of any law, ordinance, rule, order or regulations applicable to the Premises, it shall give prompt notice thereof to the other party.

stated date (which shall not be less than thirty (30) days after date of Lessee's notice), to assign this Lease or to sublet any part of the Term. Lessee's notice shall include all of the terms of the proposed assignment or sublease and shall state the consideration therefore. Lessee's notice shall state the name and address of the proposed assignee or sublessee and a true and complete copy of the proposed assignment or sublease shall be delivered to Lessor with Lessee's notice.

Any subletting or assignment hereunder shall not release or discharge Lessee of or from any liability, whether past, present or future, under this Lease, and Lessee shall continue fully liable there under. The sublessee, sublessees, or assignee shall agree in a form satisfactory to the Lessor to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease to the extent of the space sublet or assigned, and Lessee shall deliver to Lessor promptly after execution, an executed copy of each such sublease or assignment and an agreement of compliance by each such sublessee or assignee.

Any sale, assignment, mortgage, transfer, or subletting of this Lease which is not in compliance with the provisions of this Article shall be of no effect and void.

ARTICLE XXVII Notices

All notices to be given by one party to the other under this Lease shall be given in writing, mailed or delivered to either party. The Lessor, any person managing the Premises and anyone designated by the Lessor as agent are authorized to accept service of process and receive other notices and demands, which may be delivered to the Lessor as follows:

(A) To Lessor: Edward Garry Leasing
 3633 Olive Brand Road
 Greenwood, IN 46143

(B) To Lessee: The Union Light Heat and Power Company
 c/o Joyce L. Gamm
 139 E. Fourth Street
 Suite 1212 Main
 Cincinnati, Ohio 45202

Mailed notices shall be sent by United States certified or registered mail, postage prepaid. Notice so mailed shall be effective upon the third day after its deposit into the mail. Notice given in any other manner shall be effective under this XXXVII only if and when received by the addressees.

ARTICLE XXVIII Effect of Conveyance by Lessor

In case Lessor or any successor owner of the Property or the Building shall convey or otherwise dispose of any portion thereof to another person, such other person who shall become owner of the Property or the Building shall thereupon be and become Lessor hereunder and shall assume fully in writing and be liable upon all liabilities and obligations of this Lease to be performed by Lessor which first arise after the date of conveyance, and such original Lessor or successor owner of the Building shall, from and after the date of conveyance, be free of all liabilities and obligations not then incurred. Lessor shall be responsible for all damages incurred by Lessee for Lessor's failure to comply with this Article.

ARTICLE XXIX Brokerage

Lessee represents and warrants to Lessor that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker. Lessee agrees to indemnify and hold harmless Lessor from the claim or claims of any other broker or brokers with whom Lessee has dealt claiming to have interested Lessee in the Building or Premises or claiming to have caused Lessee to enter into this Lease. Lessor represents and warrants to Lessee that neither it

(G) Nothing in this Lease shall be deemed to constitute Lessee as a partner or associate in business with Lessor, or responsible in any way for the business of Lessor. Lessee shall have no control over or responsibility for employees of Lessor. In the previous two sentences of this section (H), Lessor and Lessee may be used interchangeably.

(H) This Lease shall be governed by the laws of the Commonwealth of Kentucky.

(I) Each and every covenant of this Lease is distinct and severable and if any provision of this Lease is held invalid by a court of competent jurisdiction or other governmental authority the same shall be stricken here from without affecting the validity of the remaining provisions of this Lease.

(J) In case either party, shall, without fault on its part, be made a party to any litigation commenced by or against the other party, then that party shall pay all cost, expense and reasonable fees incurred or paid by such party in connection with such litigation. The responsible party shall also pay all cost, expense and reasonable fees that may be incurred or paid by the nonoffending party in enforcing a noncomplying or defaulting party's covenants and agreement of this Lease.

(K) In the event of any default in the performance or observation of any of the terms or conditions of the Lease by either party, the other party agrees that it shall not seek a personal judgment nor seek nor assert a deficiency judgment in any alleged breach nor performance of this Lease against any of the officers or directors of the defaulting party.

(L) Time is of the essence of this Lease and each and all of its provisions.

(M) Both parties have the opportunity to review this Lease with counsel and neither will be considered the drafter for purposes of this Lease.

(N) In the event of Lessor's material default hereunder and failure to cure such default after thirty (30) days advance written notice from Lessee, unless Lessor has commenced and is diligently pursuing such cure within said thirty-day period, Lessee may terminate this Lease and seek any legal or equitable rights or remedies.

(O) Each party to this Agreement represents that it is a sophisticated commercial party capable of understanding all of the terms and conditions of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of the Agreement. Therefore, neither party hereto will be considered the drafter hereof for the purposes of a more favorable construction or interpretation to either party hereto as relates to any ambiguity or dispute resulting from this Agreement.

(P) Exhibits A and B referenced herein are attached hereto and incorporated herein by this reference.

(Q) Alternative Dispute Resolution. i) If a dispute arises between the parties relating to this Lease, the following alternative dispute resolution ("ADR") procedure prior to either party pursuing other available remedies, shall be utilized:

(1) A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

(2) If, within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "Neutral") to act as a mediator. If the parties are unable to agree on the Neutral within twenty (20) days, they shall seek assistance in such regard from the Center for Resolution of Disputes, Inc. ("CRD"). The fees of the Neutral and all other common fees and expenses shall be shared equally by the parties.

(3) The mediation may proceed in accordance with CRD's Model Procedure for Mediation of Business Disputes, or the parties may mutually establish their own procedure.

If Lessee satisfies the above terms and conditions, the Lease shall be deemed to have expired by lapse of time as if the Early Termination Date were the date set forth in the Lease as the Expiration Date of the Term of the Lease. Lessee shall return the Premises to Lessor on the Early Termination Date in accordance with the terms of the Lease. If Lessee fails to deliver the Early Termination Notice or make the Termination Payment in the timeframe previously defined above, time being of the essence, Lessee's right to terminate the Lease shall be void. Unless Lessor otherwise agrees, Lessee may not exercise such right to terminate the Lease as provided herein, and no termination hereunder shall be effective if a default exists under the Lease and any applicable notice and/or cure period has expired with such default being cured as of the Early Termination Notice or as of the Early Termination Date. All obligations of either party to the other which accrue under the Lease on or before the Early Termination Date shall survive such termination.

ARTICLE XXXVI
Right of First Offer to Purchase

If at anytime prior to the Expiration Date, Lessor receives an acceptable offer to purchase the Premises and Adjacent Facilities from a third party, Lessor agrees to give the Lessee thirty (30) days written notice that the Lessor has received an acceptable purchase offer including the terms of the offer ("Right of First Offer to Purchase"). Lessee shall have thirty (30) days after receipt of the notice and terms, to purchase the Premises and Adjacent Facilities at the terms as set forth in the offer, which may include an increased purchase price than set forth herein, or waive this Right of First Offer to Purchase.

If Lessee does not exercise its Right of First Offer to Purchase within aforesaid deadline, Lessor shall be free to sell the Right of First Offer space, to which the offer relates, without regard to Lessee's right under this Article XXXVI (until such space has been sold by Lessor and thereafter is again available for sale). Notwithstanding the foregoing, if Lessor does not enter into a sale contract or binding letter of intent with a prospective buyer, to which the offer relates, or a prospective buyer for any new offer, with respect to the Right of First Offer space to which a particular offer relates, within a period of one hundred twenty (120) days following the expiration of Lessee's option period, then Lessor must again comply with the provisions of this Article XXXVI prior to accepting a purchase offer for the applicable Right of First Offer to Purchase space from any other potential buyer.

ARTICLE XXXVII
Environmental

Lessor represents and warrants that the Premises (including the Building) are free of hazardous substances as of the Effective Date of this Lease, and that the Premises (including the Building) have never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Lessor agrees that it has complied with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that Lessor's activity conducted in or on the Premises or Building.

Lessor and Lessee agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying Party for, payment of penalties, sanctions, forfeitures, losses, costs, or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) the indemnifying party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to activities conducted by the party thereon, unless the environmental conditions are caused by the other party.

The indemnifications of this Article XXXVII specifically include reasonable costs, expenses and fees incurred in connection with any investigation of the Premises or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Article XXXVII will survive the expiration or termination of this Lease.

ACKNOWLEDGEMENT - LESSOR

COMMONWEALTH OF KENTUCKY)
) SS.
COUNTY OF KENTON)

BEFORE ME, the undersigned authority on this day, personally appeared Edward Garry of EDWARD GARRY LEASING, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein stated, in the capacity therein stated and as the act and deed of said lease above.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15 day of ^{AUG}~~July~~, 2005.

Lillian M. Meeks
Notary Public in and for ~~Kenton County, Kentucky~~
Johnson County - IN.

ACKNOWLEDGMENT - LESSEE

LILLIAN M. MEEKS, Notary Public
My Commission Expires: 7-7-2008
Resident of Johnson Co., Indiana

COMMONWEALTH OF KENTUCKY)
) SS.
COUNTY OF KENTON)

BEFORE ME, the undersigned authority on this day, personally appeared BRIAN VANCE of THE UNION LIGHT, HEAT, AND POWER COMPANY, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein stated, in the capacity therein stated and as the act and deed of said lease above.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8th day of ^{AUGUST}~~July~~, 2005.

Maureen Macke
Notary Public in and for Kenton County, Kentucky



MAUREEN MACKE
Notary Public, State of Kentucky at Large
Commission Expires April 16, 2006