

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 81

Witness: Paul Thompson

- Q-81. Please reference the testimony of Paul W. Thompson, page 3. Provide "LEC's lease and power purchase and sale bid proposal."
- A-81. The Enhanced Leasehold Option Bid Submitted by Western Kentucky Energy Corp. and LG&E Energy Corp. is attached hereto.

man

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

IN RE:)	CHAPTER 11
)	
BIG RIVERS ELECTRIC CORPORATION)	CASE NO. 96-41168
)	
Debtor)	
_____)	

**ENHANCED LEASEHOLD OPTION BID SUBMITTED BY
WESTERN KENTUCKY ENERGY CORP. AND LG&E ENERGY CORP. BID**

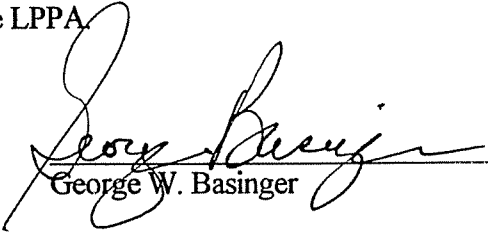
In accordance with the terms of this Court’s Memorandum-Opinion and Order with Bidding Process and Allocation of Enhanced Value, as amended by subsequent Orders of this Court and as modified by the Court on the record of the conference held on March 18, 1997, Western Kentucky Energy’s Corp. (“WKEC”) shall enhance the PKEC bid, as reflected in its Leasehold Option bid previously submitted to the Court, on February 24, 1997, by a sum having the present value of \$50 million, using the 6.91% discount rate in Big Rivers Electric Corporation’s (“Big Rivers” or “Buyer”) existing plan of reorganization, which enhanced value is guaranteed by LG&E Energy Corp.(“LG&E Energy”).¹ The individuals signing below represent and warrant they are authorized by the respective companies to make the aforestated enhanced bid.

The WKEC/LG&E Energy Enhanced Leasehold Option bid is premised upon Section 3.8 of the Long-Term Power Purchasing Agreement (the “LPPA”) between Big Rivers

¹ The mechanics for implementing the enhanced WKEC/LG&E Energy Alternative Leasehold Option bid are set forth in an Omnibus Agreement, a copy of which is annexed hereto and made a part hereof as Exhibit A.


*recd for
3/19/97*

and PacifiCorp Kentucky Energy Company ("Seller") providing that Seller will provide supplemental power at a fixed rate to Buyer only with respect to Member Cooperatives' load requirements, within their existing service areas and as scheduled by Big Rivers in accordance with Section 4 of the LPPA.

NAME: 
George W. Basinger

TITLE: President

COMPANY: WESTERN KENTUCKY ENERGY CORP.
(Bidder)

NAME: 
John R. McCall

TITLE: Executive Vice President, Corporate Secretary

COMPANY: LG&E ENERGY CORP.
(Guarantor Corporation)

DATE: March 19, 1997

OMNIBUS AGREEMENT

BETWEEN

BIG RIVERS ELECTRIC CORPORATION,

LG&E POWER MARKETING INC.,

LG&E POWER OPERATING SERVICES INC.,

AND

WESTERN KENTUCKY ENERGY CORP.

DATED AS OF

MARCH [19], 1997

OMNIBUS AGREEMENT

PARTIES

THIS OMNIBUS AGREEMENT is dated as of this [19th] day of March, 1997 (the "Omnibus Date") between BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative and a debtor and debtor in possession under Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. ("Big Rivers"), LG&E POWER MARKETING INC., a California corporation ("LPM"), LG&E POWER OPERATING SERVICES INC., a California corporation ("LPOS") and WESTERN KENTUCKY ENERGY CORP., a Kentucky corporation ("WKEC") and such other affiliates as may be required to consummate and perform the transactions contemplated herein, each together with its successors and assigns (hereinafter, LPM, LPOS and WKEC are collectively referred to as the "LG&E Parties").

RECITALS

This Omnibus Agreement, including the Attachments hereto, identifies and explains the elements of the structure by which the LG&E Parties will implement a plan which achieves a greater economic value for Big Rivers, its creditors and its customers than the Big Rivers' plan of reorganization dated January 22, 1997 and the related documents and exhibits filed by Big Rivers with the Bankruptcy Court on or about that date (collectively, the "Plan"). The Plan of Big Rivers is premised upon a transaction by which PacifiCorp Kentucky Energy Company ("PKEC") with the qualifications set forth on the record of the hearings and conferences heretofore held during the auction process, would lease the Generating Plants of Big Rivers for a term of approximately 25 years (the "PKEC Lease Transaction"). The LG&E Parties' bid structure is designed to be implemented in two steps so that the economic benefits can be achieved promptly. The first step is referred to as "Phase I" which is subject to limited regulatory consideration. Phase I continues until the earlier of the receipt of regulatory approvals for the "Phase II Lease Proposal" (as described below) or approximately twenty-five years in the unlikely event that acceptable regulatory approvals for Phase II are never received.

Upon receipt of appropriate regulatory approvals, the "Phase II Lease Proposal" will result in a structural realignment to conform closely to the PKEC Lease Transaction. The relationships of the Parties during Phase I and Phase II are summarized in Attachment A. The combined Phase I and Phase II terms will be equivalent to approximately 25 years. The value will be maintained at the enhanced level (via-à-vis the PKEC proposal) throughout the Phase I and Phase II periods as summarized in the Compensation Schedule attached hereto as Attachment B.

NOW, THEREFORE, consistent with the foregoing, in consideration of the mutual covenants set forth below, the Parties agree as follows:

**ARTICLE I.
DESCRIPTION OF OBJECTIVES**

A. PHASE I

The parties will implement Phase I primarily through the agreements identified below (and through such other agreements as the Parties agree are necessary):

1. The Operation and Maintenance Agreement between Big Rivers and LPOS dated _____, 1997 ("O&M Agreement"), pursuant to which LPOS will operate and maintain the Assets in accordance with Big Rivers' direction as set forth in the O&M Agreement during the term of Phase I. As of the Phase II Effective Date, the O&M Agreement will terminate and the Lease Agreement, described below, will become effective.

2. The Long-Term Power Purchase Agreement between Big Rivers and LPM dated _____, 1997 ("Power Marketing Agreement"), pursuant to which LPM will purchase energy and capacity from Big Rivers that is in excess of the amount reserved for Big Rivers' resale to Third Parties. As of the Phase II Effective Date, the Power Marketing Agreement will terminate and the Power Sales Agreement, described below, will become effective.

3. The Transmission Services and Interconnection Agreement between Big Rivers and LPM dated _____, 1997 ("Transmission Agreement"), (a) establishing protocols for joint system operations, load following and other ancillary services and (b) pursuant to which Big Rivers will provide firm and nonfirm transmission services to facilitate LPM's wholesale sales in a form that is consistent with the requirements of Order No. 888 of the Federal Energy Regulatory Commission ("FERC") (as amended or modified) and otherwise reasonably satisfactory to Big Rivers and LPM. The Transmission Agreement is expected to remain in effect throughout Phase I and, upon assignment by LPM to WKEC of such Transmission Agreement as of the Phase II Effective Date, would continue thereafter until the expiration of the Phase II term.

4. The Guaranty between LG&E Energy Corp., a Delaware corporation ("LEC") which indirectly owns LPM and LPOS, and Big Rivers dated _____, 1997, ("LEC Guaranty"), pursuant to which LEC will guarantee the performance of LPM and LPOS with respect to their agreements with Big Rivers and will terminate as of such time as the obligations of LPM and LPOS terminate.

5. A summary of each of the O&M Agreement, the Power Marketing Agreement, and the Transmission Agreement is attached hereto as part of Attachment A.

B. PHASE II

The parties will implement Phase II primarily through the agreements identified below (and through such other agreements as the Parties agree are necessary):

1. The Lease and Operating Agreement between WKEC and Big Rivers dated _____, 1997 ("Lease Agreement"), pursuant to which WKEC will undertake to lease and operate the Generating Plants and take title to the output of such Generating Plants.

2. The Long-Term Power Purchase Agreement between Big Rivers and WKEC dated _____, 1997 ("Power Sales Agreement"), pursuant to which WKEC will sell power to Big Rivers.

C. TERM

The Phase I agreements will continue until the lesser of approximately twenty-five years or such time as Big Rivers and WKEC are permitted to implement the Phase II transaction. After implementation of Phase II, the Phase II agreements will remain in effect until such time as the duration of Phase I and Phase II equals approximately twenty-five years, as defined more specifically in the transaction documents described herein.

ARTICLE II. EFFECTIVE DATES

A. This Omnibus Agreement will be effective as of the first day after which both of the following have occurred: (1) the Omnibus Agreement is executed and delivered by the Parties and (2) a final Order of the Bankruptcy Court acceptable in form and substance to the LG&E Parties shall have been entered finding that the LG&E Parties are entitled to the protections of the type afforded to good faith parties under Bankruptcy Code § 363(m) and approving the transactions contemplated hereby pursuant to Sections 363 or 1129 of the Bankruptcy Code, and such Order shall not be subject to a stay ("Omnibus Effective Date").

B. The Phase I agreements will become effective ("Phase I Effective Date") after the Omnibus Effective Date and upon waiver by the Parties in writing or satisfaction of each of the conditions set forth in the O&M Agreement, the Power Marketing Agreement and related Phase I documents, and such other agreements as the Parties agree are necessary, subject to required Phase I approvals of the Kentucky Public Service Commission ("KPSC").

C. The Phase II agreements will become effective ("Phase II Effective Date") after the Omnibus Effective Date and upon waiver by the Parties in writing or satisfaction of each of the conditions set forth in the Lease Agreement, the Power Sales Agreement and related Phase II documents, and such other agreements as the Parties agree are necessary, subject to required Phase II approvals of the KPSC and FERC.

ARTICLE III. OBLIGATIONS OF THE PARTIES

A. The Parties shall negotiate and proceed in good faith to finalize the transaction documents and implement the agreements promptly and in the form described. To facilitate final agreement with respect to the transaction documents, the LG&E Parties shall provide to Big Rivers draft documents embodying the material elements of both Phase I and Phase II (the "Proposed LG&E Documents"). The Proposed LG&E Documents will contain substantially the same economic terms as (with the certain enhancements proposed by the LG&E Parties), and in the case of the Phase II documents will be substantially in the form of, the PKEC Lease Transaction embodied in the documents attached as exhibits to the Plan. The Proposed LG&E Documents shall (i) be delivered to Big Rivers and other necessary parties following the selection of the LG&E Parties' bid as the winning bid, (ii) contain the basic economic terms set forth herein and on the record of the conference held on March 18, 1997 and the hearing

held before the Bankruptcy Court on March 19, 1997, and (iii) be finalized and submitted for Bankruptcy Court approval. Big Rivers and the LG&E Parties acknowledge and agree that the form of the documents for Phase I and Phase II are subject to such changes or amendments as may be necessary to achieve approval of this transaction by the Bankruptcy Court.

B. Big Rivers and the LG&E Parties will also negotiate in good faith to implement such agreement or agreements as are necessary to permit WKEC or one of its affiliates to operate and sell power from Station Two, a generating plant owned by the City of Henderson and leased to Big Rivers pursuant to a Power Plant Construction and Operation Agreement, dated August 1, 1970, as amended, and other related agreements.

ARTICLE IV. DEFINITIONS

A. Additional Defined Terms. For purposes of this Agreement, the following terms shall have the following meaning when used with initial capitalization whether singular or plural:

"Bankruptcy Court" means the United States Bankruptcy Court for the Western District of Kentucky or such other court having jurisdiction over Big Rivers' chapter 11 case.

"Generating Plants" means each of the generating plants now owned by Big Rivers including the three unit Coleman Plant, the two unit Green Plant, the one unit D.B. Wilson Plant, the one unit Reid Unit 1, the Reid Combustion Turbine and all existing and future additions to those plants.

"Hoosier Contracts" means the Unit Power Agreement between Big Rivers Electric Corporation and Hoosier Energy Rural Electric Cooperative dated September 14, 1990 and the Peaking Power Agreement between Big Rivers Electric Corporation and Hoosier Energy Rural Electric Cooperative dated March 12, 1993.

"Member Cooperatives" means Green River Electric Corporation, Henderson-Union Rural Electric Cooperative Corporation, Jackson Purchase Electric Cooperative Corporation and Meade County Rural Electric Cooperative Corporation.

"Oglethorpe Contract" means the Long-Term Firm Power Purchase Agreement between Big Rivers Electric Corporation and Oglethorpe Power Corporation dated December 17, 1990.

"RUS" means Rural Utilities Service-United States Department of Agriculture or any successor agency or administration.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date hereof in their respective names by their respective officers thereunder duly authorized.

BIG RIVERS ELECTRIC CORPORATION,
Debtor and Debtor in Possession

By _____

Title _____

LG&E POWER OPERATING SERVICES INC.

By _____

Title _____

LG&E POWER MARKETING INC.

By _____

Title _____

WESTERN KENTUCKY ENERGY CORP.

By _____

Title _____

Omnibus Agreement Attachment A*

I. Overview of Phase I

The LG&E Parties' bid will provide to Big Rivers, its creditors and members a total enhanced present value (utilizing Big Rivers' 6.91% discount rate) of \$50 million more than the PKEC Lease Transaction proposed by Big Rivers on or about January 22, 1997. With the full cooperation of the Parties, it is anticipated that if the Bankruptcy Court enters an order approving the LG&E transaction as contemplated by the Omnibus Agreement, then Phase I could be implemented before the October 31, 1997 deadline.

As of the Phase I Effective Date, through the **O&M Agreement**, LPOS, an operator of generating facilities, will apply its skills with the objective of lowering the operating costs and increasing the reliable plant output of the Generating Plants as more fully defined in the O&M Agreement. WKEC, which would be the lessee of the Generating Plants in Phase II, will be a party to the O&M Agreement and share in payment of certain capital costs. Big Rivers will maintain ownership of its plants. Big Rivers will bear certain of the direct costs of operation and will pay LPOS a management fee, but will recover the costs of plant operation which would have been borne by the lessee in the PKEC Lease Transaction documents filed by Big Rivers with the Bankruptcy Court on or about January 22, 1997 as part of the Plan, through the **Power Marketing Agreement**.

Through the **Power Marketing Agreement** between Big Rivers and LPM, a power marketer, Big Rivers will derive financial benefits greater than those associated with the PKEC bid. LPM will pay to Big Rivers a payment in exchange for which Big Rivers will provide to LPM all of the output of the Generating Plants scheduled by LPM, except that initially Big Rivers will retain power it requires to serve the loads of its Member Cooperatives, the Oglethorpe Contract and the Hoosier Contracts. There will be an adjustment in the fixed annual payment to reflect the payment(s) which Big Rivers would have made to the lessee for power used to serve its own customers under the PKEC bid set forth in the Plan. Upon request, Big Rivers would assign to LPM the Member Cooperative contracts, the Oglethorpe Contract and the Hoosier Contracts, once the necessary regulatory approvals and any required consents are obtained. LPM is already fully authorized to engage in sales of power at market-based rates, so it will be prepared to commence operations as of the Phase I Effective Date.

Big Rivers will continue to operate and maintain its transmission system. LPM will contract with Big Rivers through the **Transmission Agreement** for transmission service. Big Rivers will be entitled to the same payments by LPM for use of the transmission system as it would have received from PKEC (including the minimum annual compensation protection provided through the PKEC Lease and Operating Agreement, which would be provided through the **Power Marketing Agreement** in Phase I).

LEC, the parent company of LPM, LPOS and WKEC, will guarantee the obligations of its subsidiaries.

Each of these Phase I Agreements is described in more detail below.

* Capitalized terms not otherwise defined herein shall have the meanings set forth in the Omnibus Agreement.

Each of these Phase I Agreements is described in more detail below.

Regulatory Approvals Necessary to Implement Phase I. In order to implement revised rate schedules for the Member Cooperatives, to commence sales to LPM, and to assure that Big Rivers and the LG&E Parties have the necessary authorizations to provide the services described above, this proposal will be presented to the Kentucky Public Service Commission ("KPSC") for approval before implementation.

Further, LPOS anticipates that before it assumes operation of the Generating Plants, KPSC certification of such plants as "eligible facilities" as defined in 15 U.S.C. § 79z5a(c) will be obtained. However, because LPOS already has the necessary federal regulatory approvals to engage in plant management, it needs only to update this information, after the KPSC has acted, through a filing with the Federal Energy Regulatory Commission ("FERC") (which will become effective upon filing, subject to further action by FERC within 60 days of filing).

II. Overview of Phase II

Upon receipt of all necessary federal and state regulatory approvals, the Parties would implement a structure in which WKEC will lease Big Rivers' Generating Plants, take title to the electrical energy and capacity of such plants pursuant to the Lease Agreement and sell power, *inter alia*, under the Power Sales Agreement. The Phase II structure and agreements are modeled on the PKEC Lease Transaction, but provide the same enhanced economic value as the LG&E Phase I structure.

III. Description of the Phase I Agreements

A. Long-Term Power Purchase Agreement Between Big Rivers Electric Corporation and LG&E Power Marketing Inc.

The Long-Term Power Purchase Agreement (the "Power Marketing Agreement") is a Phase I document that is the primary vehicle through which the economics of the PKEC Lease Transaction would be replicated.

The Agreement provides for LPM to receive all of the energy and capacity produced by the Generating Plants (and which in Phase I would be operated by LPOS), with the exception of the power that is required by Big Rivers to serve its obligations under the existing Member Cooperative contracts, Hoosier Contracts and Oglethorpe Contract, and to support its transmission system operations. With respect to power that is required to supply the Member Cooperatives, there is no upper limit on the amount to which Big Rivers is entitled to provide the Member Cooperatives for the purpose of serving their retail load within their existing service territories; but the Member Cooperatives have no right to resell the energy or serve loads outside their territory with Big Rivers' power. As in the PKEC Lease Transaction, Big Rivers is entitled to a range of "Base Power" at specified rates and "Supplemental Power" at a "market rate" of \$19.20 during the Initial Period (consisting of the first partial year and the next three years). Unlike the PKEC Lease Transaction, Supplemental Power will be available throughout Phase I rather than only during an Initial Period, subject to the Parties' agreement as to an appropriate price for the extended term.

LPM will pay Big Rivers an amount equivalent to the annual rental payment that PKEC would have made, and incorporates, where relevant, adjustments to the annual rental payment to which PKEC would have been entitled (for example, for the purchase of personal property (PKEC Lease and Operating Agreement § 2.12)). LPM will also pay Big Rivers a fee which compensates Big Rivers for the costs that are passed through to Big Rivers under the O&M Agreement. LPM will be entitled to reductions in its payments based on the value of the power that Big Rivers utilizes. Specifically, deductions are made for (1) Member Cooperatives' power at the rates set forth in the form of Long-Term Power Purchase Agreement between Big Rivers and PKEC (except that Supplemental Power would continue to be available throughout Phase I as noted above); (2) the full amount of revenue received by Big Rivers from sales made pursuant to the Hoosier Contracts and the Oglethorpe Contract; and (3) revenues received by Big Rivers for generation-based services used to support Big Rivers' transmission system. This is consistent with the PKEC Lease Transaction in which PKEC would have assumed the Hoosier Contracts and the Oglethorpe Contract, and Big Rivers would have purchased power from PKEC only for resale to the Member Cooperatives. The Power Marketing Agreement will also provide for the "Transmission Use Lease Payment Compensation Adjustment," as defined and described in the form of Lease and Operating Agreement between PKEC and Big Rivers.

B. Summary of Facilities Operating Agreement

The Facilities Operating Agreement (the "O&M Agreement") will be entered into by and among Big Rivers (the "Owner"), LPOS (the "Operator"), and WKEC (the "Owner's Agent") (collectively, the "Parties"). In accordance with the terms and conditions set forth in the O&M Agreement, Owner is procuring the services of Operator with respect to the operation and maintenance of the Generating Plants and is making payments to Operator during the term of the O&M Agreement. Operator will use its expertise and management skills to reduce operating costs and increase the electricity output of the Generating Plants. Owner's Agent, the lessee in Phase II, will assume a similar role to that of PKEC in the PKEC Lease transaction in a number of areas which are generally outside the scope of duties of an operator but which are necessary to assure that Big Rivers receives the full benefit it is seeking. During Phase I, Owner continues to own the Generating Plants and other assets and all electrical energy produced therefrom, and to make decisions with respect to such Generating Plants and Assets as more fully described below.

Transfers to Owner's Agent. Owner's Agent shall receive from Owner all inventory, personal property, intangible assets, certain SO2 Allowances and certain assets under Big Rivers' employee benefit plans. Owner's Agent is obligated to pay the same amount for such assets as PKEC was obligated to pay and has the obligation, similar to the obligation of PKEC, to return such assets at the end of the Term (provided such Term is not immediately followed by Phase II). Owner's Agent has agreed to make available to Operator, at no charge, all such assets/employees in connection with Operator's performance under the Agreement.

Payment. Owner will (i) reimburse Operator for all ordinary operating and maintenance expenses; (ii) pay an annual management fee; and (iii) pay a management bonus if certain operating criteria are achieved. Operator will manage all Owner's accounts and will have authority to withdraw from such accounts, on behalf of Owner, amounts required to pay operating expenses.

have authority to withdraw from such accounts, on behalf of Owner, amounts required to pay operating expenses.

Budget Approval; Operating Committee. Both Owner and Owner's Agent will appoint members to an Operating Committee, which committee provides a means to secure effective cooperation as between the LG&E Parties and Owner in connection with the operation of the Assets.

Risk Allocation. Allocation of risk among the Parties with respect to operating expenses, capital assets, environmental liabilities, insurance coverage, property taxes, condemnation, damage to assets and employee-related matters shall be materially consistent with the treatment of such matters under the PKEC Lease and Operating Agreement.

Conditions Precedent to Obligations of Parties. The Agreement will become effective upon the satisfaction of all conditions precedent, which conditions precedent are materially consistent with those set forth in the PKEC Omnibus Agreement.

Representations and Warranties of Owner. The representations and warranties of Owner made for the benefit of Operator and Owner's Agent are materially consistent with the representations and warranties of Owner to PKEC under the PKEC Lease and Operating Agreement.

Mortgage and Security Agreement. A Mortgage and Security Agreement will be executed in favor of the LG&E Parties and their affiliates providing the LG&E Parties with a lien (subordinate only to the liens held by the Lenders) on all assets, thereby securing Owner's payment obligations under the Phase I Agreements described in Section I.A.1.-4. of the Omnibus Agreement, the Phase II Lease and Operating Agreement and all Basic Agreements, including any damages payable thereunder.

Transfer and Assignment. The Operator and the Owner's Agent may transfer or assign their interests in the O&M Agreement to any creditor holding a Permitted Lien and any other mortgagee or secured party as security for indebtedness. Any Party may transfer or assign its interest to (i) an Affiliate; (ii) any Person into which it is merged or consolidated or to which it transfers substantially all its assets; and (iii) with respect to the Operator and the Owner's Agent only, any other Person authorized, to the extent required, to fulfill such parties' obligations and which provides assurances of payment of equal or greater value to that provided in this Agreement.

Termination. The Agreement expires after the earlier of 25 years; a termination resulting from an event of default; or upon the Phase II Effective Date.

General Offset. Each of the LG&E Parties may offset, at its option, at any time, against all amounts owed by any LG&E Party to Owner, any amounts owed by Owner to any LG&E Party under any Basic Agreement.

C. Transmission Service and Interconnection Agreement Between Big Rivers Electric Corporation and LG&E Power Marketing Inc.

The Transmission Service and Interconnection Agreement (Transmission Agreement) between Big Rivers and LPM is a Phase I document which would be assigned in Phase II to WKEC for the remainder of the 25-year term. The Transmission Agreement provides for LPM's and, in Phase II, WKEC's use of Big River's transmission system for the transmission of its energy and capacity to third parties. It also obligates Big Rivers to provide generation-based ancillary services.

The rates for this service are initially set at \$.98 per Kw per month plus line losses. The rate can be revised prospectively not more than once every thirty-six months unless the revenue requirement increases by more than \$1 million. The revised rates must be based on cost of the transmission system and determined consistent with the methodology applied to FERC. The rates and term and conditions of service rendered to LPM will not be less favorable than that provided by Big Rivers to itself or third parties.

OMNIBUS AGREEMENT
ATTACHMENT B

PHASE I

CONSIDERATION FLOW CHART
(\$millions)

A. Phase I Initial Payment:

<u>Obligor</u>	<u>Item</u>	<u>PKEC Transaction Amount</u>	<u>LG&E Enhanced Bid Amount¹</u>
LPM	Initial Fixed Payment	\$54.4	\$57.0 ²
LPM	Additional Cash Consideration	--	\$ 8.3
WKEC	Personal Property/Inventory ³	<u>\$29.6</u>	<u>\$29.6</u>
	Total	\$84.0	\$94.9

B. Phase I Additional Annual Payments:

<u>Obligor</u>	<u>Item</u>	<u>Amount</u>	
LPM	Annual Fixed Payments ⁴	\$29.5	\$30.9
LPM	Transmission Service Payments	\$ 5.0	\$ 5.0
LPM/ WKEC	Operating Pass-Through Costs, ⁵ and such other payments consistent with the PKEC lease documents		

¹ Reflects enhanced value of LG&E bid. The total enhanced value of the LG&E bid, including discounts to ratepayers, will be \$50 million in net present value, utilizing the same 6.91% discount rate as reflected in Big Rivers' existing plan of reorganization.

² The Initial Fixed Payment means an amount as per Big Rivers' existing plan of reorganization and as adjusted by the enhanced LG&E bid.

³ Personal property/inventory reflects the estimated value as contained in Big Rivers' existing plan of reorganization.

⁴ The Annual Fixed Payments is an amount equal to the annual payments due and payable after the first 2 years, as per Big Rivers' existing plan of reorganization and as adjusted by the enhanced LG&E bid.

⁵ LPM will reimburse Big Rivers for payments made by Big Rivers to LPS under the Facilities Operating Agreement. These "Operating Pass-Through Costs" are subject to credits for energy and capacity retained by Big Rivers for sales to Member Cooperatives and under existing off-system contracts. All other energy and capacity from the Generating Plants would be provided to LPM.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 82

Witness: Paul Thompson

Q-82. Please reference the testimony of Paul W. Thompson, page 7. To the extent not previously provided, provide the "November 2005 Letter of Intent."

A-82. See attached.



201 Third Street
P.O. Box 24
Henderson, KY 42419-0024
270-827-2561
www.bigrivers.com

November 28, 2005

LG&E Energy LLC
LG&E Energy Marketing Inc.
Western Kentucky Energy Corp.
WKE Station Two Inc.
WKE Corp.
c/o LG&E Energy LLC
220 West Main Street
Louisville, Kentucky 40202

Re: Proposal to terminate and unwind certain transactions
among Big Rivers Electric Corporation, LG&E Energy LLC
and certain direct and indirect subsidiaries of LG&E Energy LLC

Gentlemen:

This letter of intent reflects the agreement among Big Rivers Electric Corporation ("Big Rivers"), LG&E Energy LLC ("LG&E Energy") and the addressee direct and indirect subsidiaries of LG&E Energy (collectively, the "LG&E Parties") with respect to a possible termination of certain agreements under which certain of the LG&E Parties lease or have the right to operate generating facilities owned by Big Rivers or the City of Henderson, Kentucky, and Big Rivers purchases power from and provides transmission service to certain of the LG&E Parties. Attached to this letter of intent is a Summary of Terms and Conditions setting forth Big Rivers' and the LG&E Parties' preliminary understandings regarding the general terms and conditions that may form the basis for the termination transactions described above (the "Summary of Terms and Conditions"). It is expressly understood and agreed by Big Rivers, LG&E Energy and the LG&E Parties that, except as expressly provided below in this letter of intent, neither the provisions of this letter of intent nor the provisions of the Summary of Terms and Conditions shall create or constitute a binding commitment or obligation on the part of Big Rivers, LG&E Energy or any LG&E Party in any respect or for any purpose. Nothing contained in this letter of intent or in the Summary of Terms and Conditions attached hereto shall constitute a binding offer by any party hereto with respect to any of the transactions contemplated herein or therein.

From and after the date of execution of this letter of intent through the earlier to occur of:
(a) the execution by the parties of the mutually-satisfactory "Definitive Documentation"

November 28, 2005

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contemplated in the Summary of Terms and Conditions; or (b) the termination of this letter of intent by LG&E Energy and the LG&E Parties, in their sole discretion, or by Big Rivers, in its sole discretion, if, by August 1, 2006, Big Rivers (or any relevant affiliate of Big Rivers organized to consummate the Transaction) shall not have received from S&P a "credit assessment" indicating that, following the consummation of the proposed Transaction described in the Summary of Terms and Conditions, Big Rivers will be an "investment grade" credit, or if that credit assessment is received on or prior to August 1, 2006, but is thereafter withdrawn by that credit rating agency for any reason; or (c) at 5:00 P.M. Central Standard Time on the five hundred and fortieth (540th) day following the execution and delivery of this letter of intent (unless this letter of intent shall be continued beyond that date by mutual agreement of the parties hereto); or (d) the termination of this letter of intent by the mutual written agreement of the parties hereto; or (e) the termination of this letter of intent by LG&E Energy and the LG&E Parties, in their sole discretion, or by Big Rivers, in its sole discretion, if, by March 1, 2006, LG&E Energy, the LG&E Parties and Big Rivers shall not have entered into mutually-satisfactory Definitive Documentation (the date of any of such events referred to in clauses (a) – (e), the "Letter of Intent Termination Date"); Big Rivers, on the one hand, and LG&E Energy and the LG&E Parties, on the other hand, agree to negotiate in good faith toward mutually-satisfactory Definitive Documentation for the proposed "Transaction" (as defined in the Summary of Terms and Conditions), the execution and delivery of which Definitive Documentation, if it shall be finalized to the satisfaction of the parties, would remain contingent on the approval of the same by the respective Boards of Directors of LG&E Energy and Big Rivers, and by E.On AG. Upon the Letter of Intent Termination Date, this letter of intent shall immediately become null and void and the parties shall each be fully released from any further obligation or liability hereunder, except for liabilities associated with a party's breach of this letter of intent occurring prior to the Letter of Intent Termination Date (which liabilities shall survive that termination). Nothing contained in this letter of intent shall be deemed to amend, waive or discharge any of the respective rights or obligations of the parties under any of the "Operative Documents" (as defined in the New Participation Agreement among Big Rivers and the LG&E Parties dated as of April 6, 1998, as amended).

This letter of intent sets forth in full the sole agreement of Big Rivers, LG&E Energy and the LG&E Parties with respect to the transactions contemplated herein, and no obligation of Big Rivers, LG&E Energy or any LG&E Party shall be created or inferred from any prior communication among the parties, oral or written, concerning the subject matter of this letter of intent other than (i) the agreements of LG&E Energy LLC set forth in paragraphs 4 and 6 of the letter of David Spainhoward of Big Rivers to Paul W. Thompson of LG&E Energy LLC dated March 9, 2004, subject to the terms and conditions of that letter, (ii) the letter of Paul W. Thompson of LG&E Energy LLC to Michael Core of Big Rivers dated November 1, 2004, subject to the terms and conditions of that letter, and (iii) the letter agreement dated April 26, 2004, among LG&E Energy, LG&E Energy Marketing Inc., Western Kentucky Energy Corp.

November 28, 2005

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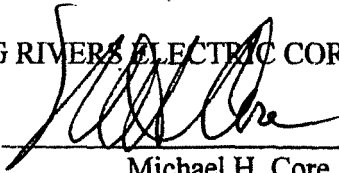
and WKE Station Two Inc. dealing with confidentiality responsibilities in connection with disclosures made to facilitate the parties' consideration of the proposed termination and unwind, each of which shall continue in full force and effect.

If you agree with the foregoing, please so indicate by signing the enclosed duplicate original of this letter in the space provided below and returning it to the undersigned.

Very truly yours,

BIG RIVERS ELECTRIC CORPORATION

By: _____


Michael H. Core
President and CEO

Executed on behalf of
LG&E ENERGY LLC,
LG&E ENERGY MARKETING INC.
WESTERN KENTUCKY ENERGY CORP.
WKE STATION TWO, INC.
WKE CORP.

By: _____
Authorized Officer

Date: _____

November 28, 2005

Page 3

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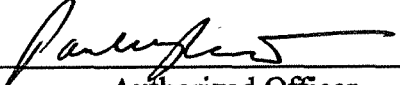
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WESTERN KENTUCKY ENERGY CORP.
WKE STATION TWO, INC.
WKE CORP.

By:  _____
Authorized Officer

Date: 11/28/05

**SUMMARY
OF
TERMS AND CONDITIONS
FOR
TERMINATION OF LEASE,
SALE OF ASSETS, TERMINATION
OF CONTRACTS AND CERTAIN
OTHER MATTERS INVOLVING
BIG RIVERS ELECTRIC CORPORATION,
LG&E ENERGY LLC.,
LG&E ENERGY MARKETING INC.,
WESTERN KENTUCKY ENERGY CORP.,
WKE STATION TWO INC.
AND
WKE CORP.**

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I. PARTIES AND INTERESTED PERSONS

- A. Big Rivers:** Big Rivers Electric Corporation, a Kentucky electric generation and transmission cooperative (“Big Rivers”).
- B. LG&E Parties:**
1. LG&E Energy LLC, a Kentucky limited liability company (“LG&E Energy”);
 2. LG&E Energy Marketing Inc., an Oklahoma corporation (“LEM”);
 3. Western Kentucky Energy Corp., a Kentucky corporation (“WKEC”);
 4. WKE Station Two Inc., a Kentucky corporation (“Station Two Subsidiary”); and
 5. WKE Corp., a Kentucky corporation (“WKE Corp.”).
- C. Ambac Entities:**
1. Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance corporation (“Ambac”);
 2. AME Investments, LLC, a Delaware limited liability company (“AME Investments”);
 3. Ambac Credit Products, LLC, a Delaware limited liability company (“Ambac Credit Products”); and
 4. AME Asset Funding, LLC, a Delaware limited liability company (“AME Asset Funding”).
- D. RUS:** The Rural Utilities Service, an agency of the United States Department of Agriculture.
- E. Credit Suisse:** Credit Suisse First Boston, a banking corporation organized under the laws of Switzerland, acting by and through its New York Branch.
- F. Economically Defeased Lease Parties:**
1. Bluegrass Leasing, a New York general partnership;
 2. Fleet Real Estate, Inc., a Rhode Island corporation;
 3. PBR-1 Statutory Trust, PBR-2 Statutory Trust,

- PBR-3 Statutory Trust, FBR-1 Statutory Trust, PBR-1 OP Statutory Trust, PBR-2 OP Statutory Trust, PBR-3 OP Statutory Trust, FBR-1 OP Statutory Trust, FBR-2 OP Statutory Trust, all Connecticut statutory trusts;
4. U.S. Bank Trust National Association, a National Banking Association;
 5. CoBank, ACB, a government sponsored enterprise of the United States;
 6. Ambac;
 7. AME Investments;
 8. Ambac Credit Products;
 9. AME Asset Funding;
- G.** CFC: National Rural Utilities Cooperative Finance Corporation, a cooperative corporation organized under the laws of the District of Columbia.
- H.** Smelters:
1. Alcan Primary Products Corporation and Alcan Corporation (collectively, “Alcan”);
 2. Alcan Inc. (“Alcan Guarantor”);
 3. Century Aluminum Company and Century Aluminum of Kentucky LLC (collectively, “Century”); and
 4. Southwire Company
- I.** City of Henderson: The City of Henderson, Kentucky, and the City of Henderson Utility Commission doing business as Henderson Municipal Power & Light.
- J.** Counsel to LG&E Parties: Greenebaum Doll & McDonald PLLC.
- K.** General Counsel to Big Rivers: Sullivan, Mountjoy, Stainback & Miller, P.S.C.
- L.** Special Counsel to Big Rivers: Orrick, Herrington & Sutcliffe LLP.
- M.** Advisor to Big Rivers: CRA International.

- N.** Financial Advisor to Big Rivers: Goldman, Sachs & Co.
- O.** Big Rivers Member Cooperatives:
1. Kenergy Corp.;
 2. Jackson Purchase Energy Corporation; and
 3. Meade County Rural Electric Cooperative Corporation.
- P.** Counsel to Alcan and Century: Boehm, Kurtz & Lowry.
- Q.** Counsel to Alcan and Century: Stites & Harbison.
- R.** Advisor to Alcan and Century: Energy Services Group, LLC.
- S.** Preparer of Unwind Environmental Audit: Woodward-Clyde International-Americas or other environmental consulting firm satisfactory to the parties (“Environmental Consultant”).

II. DEFINITIONS

- A.** Intellectual Property: Intellectual Property shall mean patents, patent applications, trade secrets, license rights, license agreements, and franchises in which any LG&E Party has an interest and which relate to the operation and/or dispatch of the Generating Plants, including without limitation, computer programs utilized by an LG&E Party in connection with the operation and/or dispatch of the Generating Plants, including object and source code so utilized.
- B.** Letter of Intent: The letter agreement among the LG&E Parties and Big Rivers dated November 28, 2005, to which this Summary of Terms and Conditions is attached.
- C.** Station Two Operating Agreement: Power Plant Construction and Operation Agreement between the City of Henderson and Big Rivers, dated August 1, 1970, as amended.
- D.** Transaction: The transactions contemplated by this Summary of Terms and Conditions and the “Definitive Documentation” (as defined below).

- E. Unwind Closing Date: The date upon which the transactions contemplated in the Definitive Documentation shall be consummated in accordance with their respective terms. In no event shall the Unwind Closing Date occur on a date prior to nine months following the date of execution by the Parties of the Definitive Documents.

All capitalized terms used in this Summary of Terms and Conditions not otherwise defined shall have the meaning given them in Schedule X to the New Participation Agreement among Big Rivers, LEM, Western Kentucky Leasing Corp., Station Two Subsidiary and WKEC, dated April 6, 1998, as heretofore amended.

III. TERMINATION OF PHASE II AGREEMENTS AND CERTAIN OTHER AGREEMENTS; CONVEYANCES

- A. Termination of Agreements and Certain Obligations: Pursuant to the Definitive Documentation to be negotiated by the parties as contemplated in Section IV below, on the Unwind Closing Date, all rights and obligations of Big Rivers and each of the LG&E Parties under each of the following documents, including all amendments thereto, would terminate and any possessory interest in real or personal property created thereunder would terminate:
1. Participation Agreement (including, without limitation, termination of the obligation of Big Rivers to pay any amount in respect of the LG&E Parties' Residual Value Payment pursuant to Section 24 of the Participation Agreement);
 2. Lease;
 3. Power Purchase Agreement;
 4. Transmission Service and Interconnection Agreement;
 5. Assignment and Assumption Agreement;
 6. Transformer Operation and Maintenance Agreement between WKEC, WKE Corp. and Big Rivers dated July 15, 1998;
 7. Meter and Telemetry Equipment Operation and Maintenance Agreement between WKEC, Station Two Subsidiary, WKE Corp. and Big Rivers, dated July 15, 1998;

8. Telecommunication Agreement between Big Rivers and WKEC, dated July 15, 1998;
9. System Disturbance Agreement among Big Rivers, Station Two Subsidiary, WKEC, Kenergy (as successor to Henderson Union Electric Cooperative Corp. and Green River Energy) Electric Corporation, Alcan and Century (successor in interest to Southwire Company);
10. Designated Representative/Alternate Designated Representative Appointment Agreement by and between Big Rivers, WKEC, Gregory Black and Ralph Bowling, dated July 29, 2002;
11. Short Form Lease by and between Big Rivers, WKEC, Station Two Subsidiary, LEM and WKE Corp., dated July 15, 1998;
12. Settlement and Release Agreement, effective as of August 5, 2003, between Big Rivers and LEM; provided, that the Definitive Documentation will incorporate provisions similar to the second and third sentences of Section 3 of such document, Section 8 of such document and the third sentence of Section 9 of such document (the "Operative Sections"), and provisions similar to Sections 5, 6, 7 and 10 of such document to the extent they may relate to the Operative Sections, in order to provide Big Rivers and LEM with rights and obligations substantially the same as provided in such Sections.
13. Operating Assumptions and Practices Agreement, executed on August 5, 2003, between Big Rivers and LEM;
14. Letter Agreement between Big Rivers and WKEC dated October 20, 2003;
15. Agreement for Settlement and Release of Claims between Big Rivers and WKEC, LEM, Station Two Subsidiary, WKE Corp. and LG&E Energy, dated May 25, 2004, relating to the Wilson run-off pond settlement;

16. Baseline Study Agreement dated October 15, 1997, among Big Rivers and the LG&E Parties;
17. Agreement for Professional and Environmental Services dated October 15, 1997 among Woodward-Clyde International Americas, WKEC and Big Rivers; provided, that Big Rivers and WKEC would attempt to structure the termination of this agreement as between them in such a manner as would preserve their respective rights and remedies as against Woodward-Clyde International-Americas thereunder following the Unwind Closing Date; and
18. The letter agreement dated February 19, 2002, between WKEC and Big Rivers including the letter attached thereto dated November 29, 2001 from David Spainhoward of Big Rivers to Rob Toerne of WKEC (collectively, the "NOx Compliance Letter").

The termination and release of the agreements identified above or elsewhere in this Summary of Terms and Conditions would not be construed to reopen any disputes among the parties resolved in accordance with such agreements. In the event, following the execution of the Letter of Intent, it is determined that one or more other agreements between Big Rivers and any LG&E Party not identified in this Subsection A or in Subsection B below exists, the parties would agree to address the termination and release of such other agreement(s) in the Definitive Documentation in a manner consistent with treatment of the agreements and instruments described above, except as otherwise agreed by the parties.

The termination and release of the agreements and instruments contemplated above would be effected pursuant to one or more termination and release agreements among Big Rivers, the relevant LG&E Parties and any other parties thereto, pursuant to which, among other actions, Big Rivers, on the one hand, and the LG&E Parties, on the other hand, would release and discharge the other(s) of and from any debts, obligations or liabilities whatsoever (whether pursuant to those agreements or instruments or otherwise), other than their respective obligations under the Definitive Documents and under other existing agreements (unrelated to the

1998 transactions) that may be identified by the parties as to survive the Unwind Closing Date. On the Unwind Closing Date, each of the Big Rivers Member Cooperatives would waive any third-party beneficiary or other similar rights that they may have under or pursuant to the Power Purchase Agreement.

On the Unwind Closing Date, Big Rivers would be discharged from its obligation under the Settlement Promissory Note dated July 15, 1998, to LEM (or its permitted assignee or endorsee), in the original principal amount of \$19,675,603 and the LG&E Parties would not be responsible for the payment of any taxes on any income (whether imputed or otherwise) to Big Rivers resulting from the discharge of the Settlement Promissory Note.

On the Unwind Closing Date, each of the LG&E Parties would release all of its right, title and interest, including any lien or security interest, under the Mortgage and Security Agreement (Subordinated Mortgage), the LEM Mortgage, the Non-Disturbance Agreement and any other agreements that may have been entered into by any LG&E Party in connection with the 2000 economically defeased lease transaction of Big Rivers. On the Unwind Closing Date, each of the LG&E Parties would be released and discharged from any continuing obligations under any of such agreements and mortgages by each of the other parties thereto, including without limitation, the Ambac Entities, RUS, Credit Suisse, CFC and the Economically Defeased Lease Parties.

On the Unwind Closing Date, LG&E Energy would be released from all of its obligations under the Guaranty, the relevant LG&E Party or LG&E Parties would be released and discharged under a letter agreement dated December 20, 2000 among WKEC, Big Rivers and Texas Gas Transmission Corporation, and LEM would be released and discharged from all of its obligations under the Demand Promissory Note payable to the United States of America dated July 15, 1998 in the original principal amount of \$933,333.33 (the "LEM/RUS Note").

On the Unwind Closing Date, LG&E Energy would also be released from all of its obligations (if any) under the Amended and Restated Guarantee Agreement dated March 18, 1998, in favor of Big Rivers, and each of the

LG&E Parties, on the one hand, and Big Rivers, on the other hand, would be released from any further obligations under the Participation Agreement dated June 9, 1997.

B. Confirmation of Termination of Agreements and Note:

Each of the LG&E Parties and Big Rivers would confirm in the Definitive Documentation that each of the following agreements have heretofore terminated:

1. Software License Agreement between WKEC and Big Rivers dated July 15, 1998;
2. Lease and Option Agreement between Big Rivers and WKEC, dated July 15, 1998 (the "Lease and Option Agreement");
3. Generation Dispatching Services Agreement between Big Rivers, WKEC and LEM, dated July 15, 1998;
4. Designated Representative/Alternate Designated Representative Appointment Agreement by and between Big Rivers, WKEC, Deborah A. Dewey and Gregory Black, dated July 15, 1998;
5. Economic Development Agreement, dated as of June 18, 1997, among LEM, Big Rivers and the then member cooperative of Big Rivers; and
6. Interim Wholesale Marketing Assistance Agreement, Agreement, dated as of June 18, 1997, between Big Rivers and LEM.

Each of the LG&E Parties and Big Rivers would confirm in the Definitive Documentation the satisfaction and discharge of the Promissory Note (LEM Advances) dated July 15, 1998 made by Big Rivers to LEM.

The Definitive Documentation would provide for the release and discharge of Big Rivers and the LG&E Parties from any further obligation or liability in respect of the foregoing agreements and instruments effective as of the Unwind Closing Date.

C. Inventory:

Pursuant to the Definitive Documentation, on the Unwind Closing Date, WKEC, Station Two Subsidiary or WKE Corp., or their respective permitted assignees (as applicable), would convey to Big Rivers all rights,

title and interests (if any) in all fuel and scrubber reagent inventory, spare parts, materials and supplies held exclusively for use by any of the LG&E Parties as of the Unwind Closing Date in connection with the operation of the Generating Plants (other than such Inventories as are owned by the City of Henderson). The method for inventory quantification and time frame for determination of valuation procedures for each of the items of Inventory are set forth below:

1. Coal & Petroleum Coke. Coal and petroleum coke Inventory includes coal and petroleum coke at the Generating Plants on the ground, in conveyors, in chutes and in bunkers, and in transit to the Generating Plants. Barge coal loaded on barges and in transit would be included in Inventory whether FOB loading point or FOB Generating Plant; provided, however, that for any coal to be included in Inventory all payments to the vendor and common carrier for transportation of such coal to the Generating Plant shall have been paid or all such payments in respect of any such coal will remain the responsibility of the relevant LG&E Party.

Big Rivers and WKEC will jointly conduct a physical inventory (including sampling adequate to determine that the coal Inventory meets the specifications of the vendor contracts pursuant to which it was delivered in respect of Btu/lb, moisture, ash and sulphur content) of the coal and petroleum coke. The Inventory quantity on the Unwind Closing Date will be the physical inventory adjusted for coal and petroleum coke receipts and burns between the date of the physical inventory and the Unwind Closing Date.

The coal and petroleum coke included in Inventory on the Unwind Closing Date will be valued as of the Unwind Closing Date based upon the "as received" costs incurred by WKEC or Station Two Subsidiary (as applicable) to procure the same, including all transportation costs incurred by those LG&E Parties.

2. Fuel Oil. The level of fuel oil in the tanks at the plants will be measured at least 7 days prior to the Unwind Closing Date by representatives of

Big Rivers and WKEC. The measurement (corrected for weather and/or gravity) will be compared to booked gallons and adjustments, if any, will be made by mutual consent. The physical inventory of fuel oil will be adjusted for fuel oil receipts and usage between the date of the measurement and the Unwind Closing Date. The fuel oil included in Inventory on the Unwind Closing Date will be valued as of the Unwind Closing Date based upon the “as received” costs incurred by WKEC or Station Two Subsidiary (as applicable) to procure the same, including all transportation costs incurred by those LG&E Parties.

3. DBA (reagent). The amount of DBA (reagent) in Inventory will be determined using the same methodology as for fuel oil. The measurement (corrected for weather and/or gravity) will be compared to booked gallons and adjustments, if any, will be made by mutual consent. The physical inventory of DBA (reagent) will be adjusted for DBA (reagent) receipts and usage between the date of the measurement and the Unwind Closing Date. The DBA (reagent) included in Inventory on the Unwind Closing Date will be valued as of the Unwind Closing Date based upon the “as received” costs incurred by WKEC or Station Two Subsidiary (as applicable) to procure the same, including all transportation costs incurred by those LG&E Parties.

4. Reagent (lime/limestone, fixation lime and sodium sulfite). The volume of reagent lime/limestone, fixation lime and sodium sulfite in the storage facilities at the Generating Plants will be measured at least 7 days prior to the Unwind Closing Date by representatives of Big Rivers and WKEC. The measurement will be compared to booked quantities at each plant location and adjustments, if any, will be made by mutual consent. The physical inventory of reagent lime/limestone, fixation lime and sodium sulfite will be adjusted for reagent lime/limestone, fixation lime and sodium sulfite receipts and usage between the date of the

measurement and the Unwind Closing Date. The Reagent (lime/limestone, fixation lime and sodium sulfite) included in Inventory on the Unwind Closing Date will be valued as of the Unwind Closing Date based upon the "as received" costs incurred by WKEC or Station Two Subsidiary (as applicable) to procure the same, including all transportation costs incurred by those LG&E Parties.

5. Spare Parts, Materials and Supplies. A physical inventory of parts, materials and supplies will be conducted by representatives of WKEC and Big Rivers at least 7 days prior to the Unwind Closing Date. The Parties agree that the spare parts, materials and supplies Inventory shall include all spare parts, materials and supplies held exclusively for use by any of the LG&E Parties in connection with its operation of the Generating Plants wherever located, including without limitation, those at the Generating Plants, those at WKEC's headquarters building, those at the central lab, and those maintained by the environmental and fuels groups of WKEC or Station Two Subsidiary, but excluding those owned by the City of Henderson. The physical inventory of parts, materials and supplies will be adjusted for parts, materials and supplies receipts and usage between the date of the measurement and the Unwind Closing Date. The spare parts, materials and supplies included in Inventory on the Unwind Closing Date will be valued as of the Unwind Closing Date based upon the "as received" costs incurred by WKEC, Station Two Subsidiary or WKE Corp. (as applicable) to procure the same, including all transportation costs incurred by those LG&E Parties.

6. Ammonia. The volume of ammonia stored for use in connection with the Generating Plants will be measured at least 7 days prior to the Unwind Closing Date by representatives of Big Rivers and WKEC. The physical inventory of ammonia will be adjusted for ammonia receipts and usage between the date of the measurement and the Unwind Closing Date. All ammonia stored for use in connection with the Generating Plants will be valued as of the Unwind Closing Date based upon the “as received” costs incurred by WKEC or Station Two Subsidiary (as applicable) to procure the same, including all transportation costs incurred by those LG&E Parties.

The “as received” cost for any item of Inventory shall mean the relevant LG&E Party’s “book value” of such item of Inventory as of the Unwind Closing Date, utilizing “average cost methodology,” and shall in no event include any inter-LG&E Energy affiliated company allocations or overheads of any LG&E Energy affiliated companies; provided, that the exclusion for inter-LG&E Energy affiliated company allocations would not be deemed to exclude from the determination of “book value” amounts paid or payable by WKEC, Station Two Subsidiary or WKE Corp. to any of the other LG&E Parties to compensate such LG&E Party (on a dollar-for-dollar basis, without mark-up) for the out-of-pocket costs incurred by such LG&E Party for Inventory in the possession of WKEC, Station Two Subsidiary or WKE Corp, or in transit to any of those LG&E Parties, as of the Unwind Closing Date. Big Rivers will not be responsible for any amounts payable in respect of any item of Inventory, including without limitation to any vendor or transporter. Prior to the execution of Definitive Documentation, representatives of Big Rivers will confer with representatives of the LG&E Parties to confirm the acceptability of WKEC’s, Station Two Subsidiary’s and/or WKE Corp.’s (as applicable) method of computation of “average cost” for any items of Inventory, the methodology of any inter-LG&E affiliated company transfers of any items of Inventory and the absence of any allocations or overheads described in the second preceding sentence in the determination of such “as received” cost. To the extent any Inventory in transit or other Inventory is to be included in the Inventory to be transferred to Big Rivers on the Unwind Closing Date as

contemplated above, but such Inventory is not yet reflected for accounting purpose in the book value of WKEC's, Station Two Subsidiary's or WKEC Corp.'s total inventory as of the Unwind Closing Date, the accepted methodology for computing the "average cost" of Inventory would nonetheless factor in that Inventory in transit or other Inventory for the purpose of determining the amount of any payment or credit due as contemplated in the following two sentences. If the aggregate valuation given to the items of Inventory described above and the Personal Property identified in paragraph D. below, is less than \$55,000,000 as of the Unwind Closing Date, the amount of such shortfall would be paid by the LG&E Parties to Big Rivers on the Unwind Closing Date and would be in addition to all other payments required from the LG&E Parties by the Definitive Documentation. If the aggregate valuation given to such items of Inventory and Personal Property is greater than \$55,000,000 as of the Unwind Closing Date, the amount of such overage would be credited against the cash payment to be made by one or more of the LG&E Parties to Big Rivers as contemplated in Section V.A. below.

D. Personal Property:

Pursuant to the Definitive Documentation, on the Unwind Closing Date, each LG&E Party would convey to Big Rivers that LG&E Party's rights, title and interests (if any) in certain personal property then in that LG&E Party's possession and used or held at that time exclusively for use in connection with that LG&E Party's use and operation of the Generating Plants. A list of the Personal Property to be conveyed would be provided to Big Rivers prior to the Unwind Closing Date and would be incorporated in the Definitive Documentation. The Personal Property would include tangible property identified as "Personal Property" on the Effective Date (other than Excluded Assets, and other than Personal Property disposed of by the LG&E Parties in the ordinary course of business since the Effective Date), but may include other tangible personal property used or held by WKEC, Station Two Subsidiary or WKE Corp. exclusively for use in the operation of the Generating Plants. The conveyance of Personal Property would not result in any additional compensation paid to any of the LG&E Parties (other than the potential credit to one or more of the LG&E Parties contemplated in the last paragraph of Subsection C above). All Personal

Property to be conveyed to Big Rivers as of the Unwind Closing Date will be valued at the relevant LG&E Party's depreciated book value of such Personal Property as of the Unwind Closing Date. As soon as practicable after the execution of the Letter of Intent, representatives of Big Rivers will confer with representatives of the LG&E Parties to confirm the acceptability of the depreciation rates used by WKEC, Station Two Subsidiary and/or WKE Corp. (as applicable) with respect to all Personal Property to be conveyed and the depreciated basis of all items of Personal Property to be conveyed which constituted "Personal Property" on the Effective Date.

E. Assignment of Certain Contracts:

The Definitive Documentation for the Transaction would identify those contracts to which any LG&E Party is a party relating to the Generating Plants, the Real Property, or the Tangible Assets, or to the operation, maintenance, repair or upkeep thereof (including, without limitation, contracts relating to fuel, scrubber reagent, fuel oil, ammonia, spare parts, capital construction projects, outside services and others which Big Rivers may request, but excluding: (1) Intellectual Property licenses and the like, the disposition of which would be addressed as contemplated in Section III.H., below; (2) any contracts identified in the Definitive Documentation to be terminated and released, in whole or in part, as of the Unwind Closing Date (but excluded only to the extent so terminated), and (3) any "LG&E Inter-Company Commitments" (as hereinafter defined)), which would be assigned to Big Rivers and which Big Rivers would assume as of the Unwind Closing Date (subject to any applicable consents to assignment and assumption being obtained). As used herein "LG&E Inter-Company Commitments" shall mean contracts, agreements, arrangements, commitments, debts, obligations or liabilities of any nature whatsoever relating to the Generating Plants, the Real Property or the Tangible Assets, or to the operation, maintenance, repair or upkeep thereof, in each case that may now or as of the Unwind Closing Date exist solely between or among any two or more LG&E Parties, or solely between or among one or more LG&E Parties on the one hand, and any of their respective Affiliates, on the other hand, it being understood that the LG&E Parties intend to either retain or terminate and fully release all LG&E Inter-Company Commitments as of or following the Unwind Closing

Date. Prior to the execution of the Definitive Documentation, the LG&E Parties would identify all services and commodities provided in accordance with the LG&E Inter-Company Commitments which are to be retained or terminated as of or following the Unwind Closing Date to permit Big Rivers to determine, in its reasonable opinion, that the services and commodities provided to the LG&E Parties relating to the Generating Plants, the Real Property and the Tangible Assets under the LG&E Inter-Company Commitments will be readily available to Big Rivers after the Unwind Closing Date on reasonable terms and conditions. The LG&E Parties provided Big Rivers with copies of all contracts eligible for assumption by Big Rivers in accordance with this Section III.E. having an expiration date later than July 1, 2006 and providing for aggregate payments to the vendor thereunder in excess of \$1 million, in sufficient time to permit Big Rivers to determine prior to the execution of the Letter of Intent if there are any of such contracts it elected not to assume. Each of the LG&E Parties and Big Rivers would agree in the Definitive Documentation to use its reasonable best efforts to obtain any third party consents required for the assignment to, and assumption by, Big Rivers contemplated by this Section III.E. On the Unwind Closing Date such contracts (as applicable, for which necessary consents to assignment and assumption have been obtained) would be assigned to Big Rivers by the LG&E Party or Parties which are parties thereto, and Big Rivers would assume all of the relevant LG&E Party's obligations relating to any periods prior to the Effective Date (where applicable), or relating to the period commencing with the Unwind Closing Date, in each case with respect to the contracts which are assigned. Big Rivers will have no obligation to assume any contract not provided to it and reviewed by it, and identified in the Definitive Documentation as being assumed by it, all in accordance with the preceding provisions of this Section III.E. Such assignment of contracts shall not result in any payment by Big Rivers to any LG&E Party. The LG&E Parties shall not be required to make aggregate payments in excess of \$1 million to third parties collectively (whether directly or through Big Rivers) in order to obtain such parties' consents to the assignment to Big Rivers and release of the relevant LG&E Party under such contracts. There shall be deducted from such \$1 million commitment on the part of the LG&E Parties any payments the LG&E

Parties may make to third parties (whether directly or through Big Rivers) in order to obtain consents to (a) the assignment to Big Rivers and release of the relevant LG&E Party of any Equipment Lease in accordance with Section III.G, (b) the use for the benefit of Big Rivers of Intellectual Property pursuant to Section III.H. or Section IX.B., (c) the assignment to Big Rivers of governmental permits, licenses, authorizations and allowances pursuant to Section III.I., and (d) the assignments to Big Rivers and release of the relevant LG&E Party under permits and contracts pursuant to Section VII.C. In addition to the foregoing, to the extent the LG&E Parties (or any of them) have made any payments to third parties (whether directly or through Big Rivers) as of the Unwind Closing in order to obtain such third parties' consents and/or releases as contemplated in Sections III.E., G., H. and I., and in Section VII.C., the Definitive Documentation would entitle those LG&E Parties (or any of them) to offset the aggregate of all such payments against any amounts that have otherwise become payable by LG&E Energy to Big Rivers pursuant to Section A.4. of the letter agreement dated as of November 1, 2004 between LG&E Energy and Big Rivers. No accounts receivable, cash on hand or other current assets of the LG&E Parties as of the Unwind Closing Date would be included in the assets to be transferred to Big Rivers on that date nor would Big Rivers assume any obligations relating to commodities or services delivered to any LG&E Party prior to the Unwind Closing Date. The Definitive Documentation would include as a condition precedent to the closing of the Transaction on the Unwind Closing Date, that the relevant LG&E Parties must be fully released and discharged from any contracts which are assigned to and assumed by Big Rivers on the Unwind Closing Date as contemplated above; provided, that except with respect to certain contracts identified by the LG&E Parties in the Definitive Documentation at the time of execution of the Definitive Documentation, the release of which will remain a condition precedent to the consummation of the Transaction, Big Rivers may provide the relevant LG&E Parties with a written indemnification covenant (in form satisfactory to the parties) in respect of one or more of such assumed contracts, in lieu of the relevant LG&E Party being released and discharged from the same. Contracts relating to the operation and maintenance of the Generating Plants (including, without limitation, fuel,

scrubber reagent, fuel oil, ammonia, spare parts and outside services) which are not to be assigned and assumed will be identified on a schedule in the Definitive Documentation. These contracts will either be terminated or the LG&E Parties will remain obligated under them. If Big Rivers declines to assume and undertake performance of a particular contract of an LG&E Party pursuant to the Definitive Documentation, and the LG&E Parties consider the burden of retaining and performing that contract following the Unwind Closing Date to be materially adverse to them (or any of them) or to otherwise materially adversely affect the overall value of the Transaction to the LG&E Parties, the LG&E Parties would reserve the right not to execute and deliver the Definitive Documentation unless an appropriate adjustment satisfactory to them and Big Rivers is made to the Unwind Closing Date cash payment(s) by one or more of the LG&E Parties pursuant to Section V.A. of this Summary of Terms and Conditions, or unless other action satisfactory to the LG&E Parties and Big Rivers is taken to address that issue and is reflected in the Definitive Documentation or an amendment thereof. These contracts addressed by this Section III.E. do not include the Station Two Contracts.

F. Certain Real Property Interests:

Pursuant to the Definitive Documentation, on the Unwind Closing Date, WKEC (or the other relevant LG&E Energy subsidiary) would convey to Big Rivers all of its right, title and interest in:

1. The property owned by WKEC or its affiliate adjacent to or near the site of the Coleman Plant described in a Quit Claim Deed of Conveyance, made and entered into February 18, 2000, by and between Inland Gulf Terminal Associates, a Kentucky general partnership, comprised of Ark Land Company, James R. Cox, Trustee under the South East Coal Trust Agreement and Kentucky Coal Corporation, as Grantor, and LCC LLC, as Grantee.
2. The property and improvements owned by an LG&E Party which is adjacent to Big Rivers' headquarters described in a Deed, made and entered into September 19th, 2000, by and between Big Rivers and WKEC.

On the Unwind Closing Date, Big Rivers would pay the LG&E Parties (i) for the property described in clause 1, an amount equal to the LG&E's Party's cost of acquisition of this property and (ii) for the property described in clause 2, an amount equal to the purchase price paid by the LG&E Parties for the same to Big Rivers pursuant to the Lease and Option Agreement. Such payment would be effected by crediting such amounts against the cash payment to Big Rivers provided for in Section V.A. below.

G. Equipment Leases:

Pursuant to the Definitive Documentation, on the Unwind Closing Date certain leases of equipment used in the operation or maintenance of the Generating Plants would be assigned to Big Rivers by the LG&E Party or Parties which are parties thereto (subject to any applicable consents to assignment and assumption being obtained), and Big Rivers would assume all of the relevant LG&E Party's obligations with respect to each such lease which is assigned relating to any periods prior to the Effective Date (where applicable), or relating to periods from and after the Unwind Closing Date. These leases may include leases defined as an "Equipment Lease" in the Participation Agreement which remain in effect as well as other leases and will be identified on a schedule in the Definitive Documentation. Big Rivers will have no obligation to assume any lease of equipment not provided to it and reviewed by it, and identified in the Definitive Documentation as being assumed by it, all in accordance with the preceding provisions of this Section III.G. Such assignment of leases shall not result in any payment by Big Rivers to any LG&E Party. The LG&E Parties shall not be required to make aggregate payments in excess of \$1 million to third parties collectively (whether directly or through Big Rivers) in order to obtain such parties' consents to the assignments to Big Rivers and releases of the relevant LG&E Party under such leases. There shall be deducted from such \$1 million commitment on the part of the LG&E Parties any payments made by them (whether directly or through Big Rivers) in order to obtain third party consents or releases as contemplated in Sections III.E., H. and I., and in Section VII.C. Leases which are not to be assigned and assumed will be identified on a schedule in the Definitive Documentation. These leases will either be terminated or the LG&E Parties will remain obligated under them. Each of the LG&E Parties and Big Rivers would agree in

the Definitive Documentation to use its reasonable best efforts to obtain any third party consents required for such assignment and assumption of equipment leases. The Definitive Documentation would include as a condition precedent to the closing of the Transaction on the Unwind Closing Date, that the relevant LG&E Parties must be fully released and discharged from any leases of equipment which are assigned to and assumed by Big Rivers on the Unwind Closing Date for all obligations under such leases relating to any periods prior to the Effective Date (where applicable) or relating to periods from and after the Unwind Closing Date; provided, that except with respect to certain equipment leases (if any) identified by the LG&E Parties in the Definitive Documentation at the time of execution of the Definitive Documentation, the release of which will remain a condition precedent to the consummation of the Transaction, Big Rivers may provide the relevant LG&E Parties with a written indemnification covenant in respect of one or more of such assumed equipment leases, in lieu of the relevant LG&E Party being released and discharged as contemplated above.

H. Intellectual Property:

Pursuant to the Definitive Documentation, on the Unwind Closing Date, all rights of the LG&E Parties in certain Intellectual Property would, to the extent transferable, be assigned, sublicensed or otherwise made available to Big Rivers. This transfer may include ownership interests in such Intellectual Property, assignment of licenses to use such Intellectual Property or new licenses to use such Intellectual Property from the licensor (but only to the extent a licensor of Intellectual Property to an LG&E Party insists upon such a new license (in lieu of an assignment or sublicense of the existing license held by that LG&E Party) as the means for permitting Big Rivers to be substituted for that LG&E Party as the user of that Intellectual Property, it being understood that no LG&E Party would be obligated to secure any new Intellectual Property licenses for the benefit of Big Rivers for Intellectual Property not then licensed by an LG&E Party). Such Intellectual Property would be identified in the Definitive Documentation, but would exclude any Intellectual Property interests owned or held by the City of Henderson. Except in the case of "Restricted IP" (as defined below), WKEC and Big Rivers would each agree in the Definitive Documentation to use its reasonable

best efforts to obtain any consents or approvals necessary to transfer WKEC's rights or ownership to any such identified Intellectual Property, the obligation under which covenant may continue after the Unwind Closing Date with respect to certain items of Intellectual Property identified in the Definitive Documentation. The conveyance of the identified Intellectual Property (or rights to use the same) would not result in any payment to any of the LG&E Parties. Big Rivers will have no obligation to assume any item of Intellectual Property not provided to it, reviewed by it and identified in the Definitive Documentation as being assumed by it, all in accordance with the provisions of this Section III.H. The LG&E Parties shall not be required to make aggregate payments in excess of \$1 million to third parties collectively (whether directly or through Big Rivers) in order (a) to obtain such parties' consents to the assignment to Big Rivers and releases of the relevant LG&E Party of or from any Intellectual Property rights or obligations, or (b) to obtain the permission of such third parties for the use of their respective Intellectual Property for the benefit of Big Rivers pursuant to the support services agreement contemplated below. There shall be deducted from such \$1 million commitment on the part of the LG&E Parties any payments made by them (whether directly or through Big Rivers) in order to obtain third party consents or releases as contemplated in Sections III.E., G. and I., and in Section VII.C. Assuming, the LG&E Parties have paid all amounts required by the preceding sentence in respect of third-party consents for the assignment of items of Intellectual Property, Big Rivers may elect to pay an additional amount required by a third party for a consent to transfer such Intellectual Property to Big Rivers and the release of the relevant LG&E Party in lieu of accepting such service through the support services agreement contemplated below. The Definitive Documentation would include as a condition precedent to the closing of the Transaction on the Unwind Closing Date, that the relevant LG&E Parties must be fully released and discharged from any obligations relating to any periods prior to the Effective Date (where applicable), or relating to the period from and after the Unwind Closing Date, under any licenses to use such Intellectual Property (i) that may constitute Restricted IP (except for such Restricted IP as LG&E Energy shall designate in the Definitive Documentation as to be used by any of the

LG&E Parties or their Affiliates in connection with operations unrelated to the Generating Plants following the Unwind Closing Date), or (ii) that may be assigned to and assumed by Big Rivers on the Unwind Closing Date as contemplated above; provided, that Big Rivers may provide the relevant LG&E Party with a written indemnification covenant in respect of one or more of such assumed licenses described in subclause (ii) above, in lieu of the relevant LG&E Party being released and discharged from the same. Notwithstanding the foregoing, Big Rivers acknowledges that the LG&E Parties may not be in a position to assign or sublicense to Big Rivers one or more items of Intellectual Property (hereinafter referred to as “Restricted IP”) on the Unwind Closing Date, due to the use of such Intellectual Property by the LG&E Parties or their Affiliates in other aspects or operations of their respective businesses or due to the inability to obtain third-party consents or approvals required for such assignment or sublicense. In such circumstances, the LG&E Parties would not assign or sublicense to Big Rivers those items of Restricted IP on the Unwind Closing Date subject to such constraints, but rather would, pursuant to a support services agreement (more fully described in Section IX below) to be included in the Definitive Documentation, to the extent it is not otherwise restricted or prohibited from doing so under the terms of the relevant license or use agreement, provide Big Rivers access to the benefits of such Restricted IP in its operation of the Generating Plants following the Unwind Closing Date for the term of that support services agreement, and upon the other terms and conditions set forth therein. The following items have been identified by the LG&E Parties as being the subject of licenses or sublicenses that are not permitted to be assigned (in whole or in part) to Big Rivers on the Unwind Closing Date, and that may be the subject of restrictions or prohibitions on the relevant LG&E Party’s use of such Intellectual Property for the benefit of Big Rivers pursuant to the above-described support services agreement absent the prior approval of the relevant licensors or sublicensors:

1. System-wide software:
 - (a) Oracle – ledgers, payables, inventory and financial reporting;

- (b) PeopleSoft – human resources/personnel reporting;
- (c) Volts – payroll and check preparation;
- (d) Legacy – accounts payable/purchasing interface with "old" Big Rivers database;
- (e) Magic – help desk reporting/tracking of information systems related problems;
- (f) Primedia – computerized interactive training;
- (g) AutoCAD–computerized drafting/drawings;
- (h) FastLook – view only network access to autoCad drawings;
- (i) Avenue – database from LEM;
- (j) ESP – environmental allowance tracking and air and water compliance software;
- (k) CSMS – fuel supply and management system;
- (l) Ipass -- remote VPN access tool;
- (m) Filenet – view of expense reports;
- (n) Symantec – Norton’s Antivirus, etc.;

2. Software at the Generating Plants only:

- (a) Maximo – maintenance management/job scheduler;
- (b) Crystal Reports – interface to Maximo to run queries and reports;
- (c) QSI Hold Card – safety tagging system (red tag);
- (d) Primavera – interface to Maximo for outage and job planning, etc.;

3. Communication infrastructure at the site of all Tangible Assets:
 - (a) Mitel telephone system, OC12 SONET ATM fiber optic backbone (OC3 in use); and
 - (b) E-mail, intranet, internet services, network monitoring and resolution of network problems, etc.;
4. All Microsoft license products at the site of all Tangible Assets; and
5. All fiber optic capacity (or rights, lease or licenses to use the same) currently owned by the LG&E Parties necessary for the communication infrastructure to, at, between and among, each Generating Plant.

In the event the consent of the licensor or sublicensor for the assignment or sublicense to Big Rivers of any such Intellectual Property cannot be obtained, the LG&E Parties would agree in the Definitive Documentation to use their reasonable best efforts to obtain any licensor or sublicensor approvals for the use of the Intellectual Property identified in Subsections 1, 2, 3, 4 and 5 above for the benefit of Big Rivers throughout the term of the support services agreement described above. In the event, despite those efforts, any such approval has not been obtained, an additional condition to Big Rivers' obligation to consummate the Transaction would be its securing of a new license from the relevant vendor to use that Intellectual Property in connection with the operation of the Generating Plants (or the relevant Generating Plant(s)) throughout the term of that support services agreement, and Big Rivers would agree to use its reasonable best efforts to secure that license. The Definitive Documentation would provide that, in the event any item of Intellectual Property necessary for the efficient operation or maintenance of any Generating Plant cannot be assigned or licensed to Big Rivers or made available to Big Rivers under the support services agreement, and a new license from the relevant vendor cannot be obtained for the use of such Intellectual Property by Big Rivers at a cost comparable to that paid by the LG&E Party in accordance with the preceding sentence, Big Rivers will have no obligation to close the

Transaction.

I. Governmental Permits and Licenses; Certain Allowances Other than SO₂ and NO_x Allowances:

Pursuant to the Definitive Documentation, on the Unwind Closing Date the LG&E Parties would transfer and assign to Big Rivers, free of all Liens, all then-existing permits, licenses, authorizations and allowances, other than SO₂ and NO_x Allowances, specifically issued or allotted by governmental entities to or in respect of any of the Generating Plants and in the possession or control of the LG&E Parties (or any of them), other than (a) those allowances which may have to be retained by any LG&E Party to comply with emissions standards applicable to the emissions from the Generating Plants (or any of them) for the period beginning on January 1 immediately preceding the Unwind Closing Date and ending on the Unwind Closing Date, (b) such allowances as are the property of or allocated by agreement to the City of Henderson, and (c) such allowances as have already been consumed by any of the Generating Plants (that is, allocated to the emissions of any Generating Plant through the Unwind Closing Date so that those emissions will comply with applicable Laws). Each of the LG&E Parties and Big Rivers would agree in the Definitive Documentation to use its reasonable best efforts to obtain any governmental consents or approvals (including any amendments or modifications to permits or licenses) required for such assignments. Such transfer and assignment would include any emission reduction credits (other than SO₂ and NO_x Allowances which are addressed in Section III.J. below), offsets, “green credits” or other forms of rights relating to the environmental attributes of the Generating Plants that are allotted by governmental entities (in current and future years) on the basis of the output or capacity of a Generating Plant, or have been retained or purchased by an LG&E Party specifically for the operation of any such Generating Plant. Each LG&E Party and Big Rivers acknowledges that on the date of execution of the Letter of Intent it is not aware of the existence of any allowances (other than SO₂ and NO_x Allowances), authorizations, emission reduction credits, offsets or “green credits” relating to the Generating Plants described in the preceding two sentences under any federal or state regulatory regime. The conveyance of such governmental permits, licenses, authorizations and allowances would not result in any payment to any LG&E Party. The LG&E Parties would not be required

to make aggregate payments in excess of \$1 million to third parties collectively (whether directly or through Big Rivers) in order to obtain such parties' consents to the assignment to Big Rivers of any such permits, licenses, authorizations or allowances. There shall be deducted from such \$1 million commitment on the part of the LG&E Parties any payments made by them (whether directly or through Big Rivers) in order to obtain third party consents or releases as contemplated in Sections III.E., G. and H., and in Section VII.C.

- J. SO₂ and NO_x Allowances:** Except for (1) such SO₂ and NO_x Allowances as have already been consumed by any of the Generating Plants (that is, allocated to the emissions of any Generating Plant so that those emissions will comply with applicable Laws, whether or not the EPA has been notified of the use of such allowances for that purpose) for all periods prior to the year in which the Unwind Closing Date occurs (the "Consumed Allowances"), (2) such SO₂ and NO_x Allowances as shall have been sold, assigned or conveyed by WKEC or Station Two Subsidiary, in its discretion, at any time prior to the Unwind Closing Date (subject to the limitations provided below), (3) the "LG&E SO₂ Allocation" and the "LG&E NO_x Allocation" (each as defined below), and (4) such SO₂ and NO_x Allowances as are the property of or allocated by agreement to the City of Henderson (the SO₂ and NO_x Allowances referred to in subclauses (1), (2), (3) and (4) being collectively referred to herein as the "Excluded Allowances"), effective as of the Unwind Closing Date Big Rivers would be entitled to the full and exclusive use, enjoyment and benefit (free of all Liens, other than Liens in favor of Big Rivers' secured creditors) including the right to sell, exchange or otherwise dispose of for Big Rivers' account, all of the SO₂ and NO_x Allowances owned or otherwise in the possession of any LG&E Party as of the Unwind Closing Date and specifically allotted by the Environmental Protection Agency or any applicable state agency to the Generating Plants, including any future years' allotment (subject to any limitations on such use, enjoyment or benefit that may be imposed under any Station Two Contract or under applicable Laws).

The Definitive Documentation would also include provisions with respect to SO₂ Allowances as follows:

1. All SO₂ Allowances that are allotted by the EPA (or any applicable state agency) to the Generating Plants for the calendar year (the "Closing Year") in which the Unwind Closing Date occurs (other than the SO₂ Allowances allotted to the City of Henderson for Station Two) are hereinafter collectively referred to as the "Closing Year SO₂ Allotment", which shall be allocated between the parties as provided below.
2. A portion of the Closing Year SO₂ Allotment for the Generating Plants would be allocated to Big Rivers for the month (assumed for purposes of this Section III.J. to be July of 2006) in which the Unwind Closing Date occurs and for all subsequent months in 2006 in the amounts set forth below:

Month	SO₂ Allowances
July	3,362
August	3,325
September	2,498
October	2,600
November	2,705
December	3,206.

Notwithstanding the foregoing, the SO₂ Allowances for the month in which the Unwind Closing Date occurs would be prorated as of and based upon that date (the number of such SO₂ Allowances in the Closing Year SO₂ Allotment allocated to Big Rivers in accordance with this sentence and the preceding sentence, the "Big Rivers SO₂ Allocation"). SO₂ Allowances included in the Closing Year SO₂ Allotment which are not allocated to Big Rivers in accordance with the above two sentences would be allocated to and retained by the LG&E Parties (the "LG&E SO₂ Allocation"). The Big Rivers SO₂ Allocation would be adjusted to account for (a) a turbine outage for Plant Wilson requested by Big Rivers and consented to by WKEC which occurs in the period between July 1 and

December 31, 2006 or (b) a mutually agreed-upon modification to an Operating Plan (as defined in Section XV.B.), but not otherwise. Any such adjustment would maintain a six percent “cushion” in the Big Rivers SO₂ Allocation above the then-anticipated SO₂ Allowance usage of the Generating Plants reflected in WKEC’s Operating Plan for 2006. If the Unwind Closing Date occurs on January 1, 2007, the Big Rivers SO₂ Allocation would consist of the entire Closing Year SO₂ Allotment.

3. WKEC and Station Two Subsidiary would be solely responsible for compliance of the actual emissions of the Generating Plants (excluding emissions attributable to energy taken by the City of Henderson) for all periods from the Effective Date through the Unwind Closing Date, and would be responsible for ensuring that a sufficient number of SO₂ Allowances are available to those LG&E Parties for that purpose following the Closing Year, including without limitation, for purchasing additional SO₂ Allowances to the extent the LG&E SO₂ Allocation is not sufficient for that purpose. Big Rivers would be solely responsible for compliance of the actual emissions of the Generating Plants (excluding emissions attributable to energy taken by the City of Henderson) for all periods from and after the Unwind Closing Date, and would be responsible for ensuring that a sufficient number of SO₂ Allowances are available to Big Rivers for that purpose following the Closing Year, including without limitation, for purchasing additional SO₂ Allowances to the extent the Big Rivers SO₂ Allocation and the “Big Rivers Supplemental Allowances” (as defined in Subsection (4) below) are not sufficient for that purpose. To the extent the LG&E SO₂ Allocation exceeds the number of SO₂ Allowances required for compliance of such actual emissions of the Generating Plants for all periods from the Effective Date through the Unwind Closing Date (after allocating Consumed Allowances for that same purpose), the relevant LG&E Party would be entitled to retain all such excess SO₂ Allowances for its own account, and

to sell or otherwise utilize the same in its sole discretion, whether before or after the end of the Closing Year and without obligation to Big Rivers. To the extent the Big Rivers SO₂ Allocation exceeds the number of SO₂ Allowances required for compliance of such actual emissions of the Generating Plants for the portion of the Closing Year from and after the Unwind Closing Date, Big Rivers would be entitled to retain all such excess SO₂ Allowances for its own account, and to sell or otherwise utilize the same in its sole discretion, whether before or after the end of the Closing Year and without obligation to the LG&E Parties.

4. WKEC would further agree in the Definitive Documentation to deliver to Big Rivers, on or prior to February 15 of the year immediately following the Closing Year, and in addition to the Big Rivers SO₂ Allocation, 14,000 SO₂ Allowances which additional SO₂ Allowances would have a vintage year which permits them to be used for emissions resulting from operations in calendar year 2007 and thereafter, at no cost or expense to Big Rivers (such additional SO₂ Allowances being referred to herein as the "Big Rivers Supplemental Allowances").
5. Big Rivers would agree in the Definitive Documentation to be solely responsible for submitting to the EPA (or any applicable state agency) all SO₂ Allowances required for compliance of the emissions of the Generating Plants other than Station Two throughout the Closing Year by the deadline for that submission under applicable Laws, including without limitation, for the portion of the Closing Year prior to the Unwind Closing Date (but only to the extent the LG&E Parties present or otherwise make available to Big Rivers a sufficient number of SO₂ Allowance for the emissions for the portion of the Closing Year prior to the Unwind Closing Date).
6. Big Rivers would agree in the Definitive Documentation that if Big Rivers provides, designates or serves as the "Designated

Representative” for Station Two SO₂ Allowance compliance, it would be solely responsible for submitting to the EPA (or any applicable state agency) all SO₂ Allowances required for compliance of the emissions of Station Two throughout the Closing Year by the deadline for that submission under applicable Laws (but only to the extent that the LG&E Parties present or otherwise make available to Big Rivers a sufficient number of SO₂ Allowances for the emissions for the portion of the Closing Year prior to the Unwind Closing Date and only to the extent the City of Henderson makes sufficient SO₂ Allowances available to Big Rivers in accordance with the Station Two Contracts, it being understood that neither Big Rivers nor the LG&E Parties would be responsible for the compliance of any SO₂ emissions associated with the energy from Station Two taken by the City of Henderson.

The Definitive Documentation would also include provisions with respect to NO_x Allowances as follows:

1. WKEC and Station Two Subsidiary would agree to ensure that all NO_x Allowances that are allotted by the EPA (or any applicable state agency) to the Generating Plants for the Closing Year (other than the NO_x Allowances allotted to the City of Henderson’s portion of the capacity and/or energy of Station Two, or allocated by contract to the City of Henderson pursuant to the Station Two Contracts) (collectively, the “Closing Year NO_x Allotment”) are available for compliance of the emissions of the Generating Plant throughout that Closing Year.
2. The Closing Year NO_x Allotment would be allocated between WKEC and Station Two Subsidiary, on the one hand, and Big Rivers, on the other hand, on the basis of the Unwind Closing Date and agreed-upon (in the Definitive Documentation) monthly forecasted emissions from the Generating Plants throughout the Closing Year, without regard to the actual emissions for the Closing Year. The portion of the Closing Year NO_x Allowances so allocated to

WKEC and Station Two Subsidiary is hereinafter referred to as the “LG&E NO_x Allocation”, and the portion of the Closing Year NO_x Allowances so allocated to Big Rivers is hereinafter referred to as the “Big Rivers NO_x Allocation”.

3. WKEC and Station Two Subsidiary would be solely responsible for compliance of the actual emissions of the Generating Plants (excluding emissions attributable to energy taken by the City of Henderson) for all periods from the Effective Date through the Unwind Closing Date, and would be responsible for ensuring that a sufficient number of NO_x Allowances are available to those LG&E Parties for that purpose following the Closing Year, including without limitation, for purchasing additional NO_x Allowances to the extent the LG&E NO_x Allocation is not sufficient for that purpose. Big Rivers would be solely responsible for compliance of the actual emissions of the Generating Plants (excluding emissions attributable to energy taken by the City of Henderson) for all periods from and after the Unwind Closing Date, and would be responsible for ensuring that a sufficient number of NO_x Allowances are available to Big Rivers for that purpose following the Closing Year, including without limitation, for purchasing additional NO_x Allowances to the extent the Big Rivers NO_x Allocation is not sufficient for that purpose. To the extent the LG&E NO_x Allocation exceeds the number of NO_x Allowances required for compliance of such actual emissions of the Generating Plants for all periods from the Effective Date through the Unwind Closing Date (after allocating Consumed Allowances for that same purpose), the relevant LG&E Party would be entitled to retain all such excess NO_x Allowances for its own account, and to sell or otherwise utilize the same in its sole discretion, whether before or after the end of the Closing Year and without obligation to Big Rivers. To the extent the Big Rivers NO_x Allocation exceeds the number of NO_x Allowances required for compliance of such actual emissions of the Generating Plants for the portion of the Closing

Year from and after the Unwind Closing Date, Big Rivers would be entitled to retain all such excess NO_x Allowances for its own account, and to sell or otherwise utilize the same in its sole discretion, whether before or after the end of the Closing Year and without obligation to the LG&E Parties.

4. Big Rivers would agree in the Definitive Documentation to be solely responsible for submitting to the EPA (or any applicable state agency) all NO_x Allowances required for compliance of the emissions of the Generating Plants other than Station Two throughout the Closing Year by the deadline for that submission under applicable Laws, including without limitation, for the portion of the Closing Year prior to the Unwind Closing Date (but only to the extent the LG&E Parties present or otherwise make available to Big Rivers a sufficient number of NO_x Allowance for the emissions prior to the Unwind Closing Date).
5. Big Rivers would agree in the Definitive Documentation that if Big Rivers provides, designates or serves as the “Designated Representative” for Station Two NO_x Allowance compliance, it would be solely responsible for submitting to the EPA (or any applicable state agency) all NO_x Allowances required for compliance of the emissions of Station Two throughout the Closing Year by the deadline for that submission under applicable Laws (but only to the extent the LG&E Parties present or otherwise make available to Big Rivers a sufficient number of NO_x Allowances for the emissions prior to the Unwind Closing Date and only to the extent the City of Henderson makes sufficient NO_x Allowances available to Big Rivers in accordance with the Station Two Contracts, it being understood that neither Big Rivers nor the LG&E Parties would be responsible for the compliance of any NO_x emissions associated with the energy from Station Two taken by the City of Henderson).

In the event prior to the Unwind Closing Date WKEC or

Station Two Subsidiary sells, assigns or conveys, or has sold, assigned or conveyed, any NO_x Allowances or SO₂ Allowances having a vintage year of the Closing Year or a subsequent year (but excluding sales, assignments or conveyances of SO₂ Allowances and NO_x Allowances included in the LG&E SO₂ Allocation or the LG&E NO_x Allocation), then at the Unwind Closing Date that LG&E Party would transfer and assign to Big Rivers substitute NO_x Allowances or SO₂ Allowances (as applicable) to replace the allowances so sold, assigned or conveyed, at that LG&E Party's sole cost.

Prior to the Unwind Closing Date, and within an agreed-upon period following the completion of the full "NO_x season" which includes 2005, the LG&E Parties and Big Rivers would jointly determine, to the reasonable satisfaction of each, if the NO_x compliance plan outlined in the NO_x Plan Approval Model 8A referred to in the NO_x Compliance Letter is performing in an acceptable manner. If it is determined that the NO_x Compliance plan outlined in the NO_x Plan Approval Model 8A referred to in the NO_x Compliance Letter is not performing in an acceptable matter, Big Rivers and the LG&E Parties would in good faith attempt to jointly develop and agree upon an alternative strategy for NO_x compliance. Any agreed-upon alternative strategy for NO_x compliance would incorporate the agreements embodied in the NO_x Compliance Letter including, without limitation, the limitation on additional capital or O&M costs for which Big Rivers would be liable. It would be a condition to the obligation of both the LG&E Parties and Big Rivers to close the Transaction that they shall have resolved any disagreements they may have relating to that NO_x compliance plan.

K. Incremental Environmental O&M:

On the Unwind Closing Date, the adjustment for the difference, if any, between Big Rivers' Incremental Environmental O&M Share of Actual Environmental O&M (as defined in the Lease) for the year in which the Unwind Closing Date occurs (and for all previous years, if not already the subject of the relevant adjustment and payment) and the aggregate Environmental Rent Reduction taken by WKEC for that year shall be made, and Big Rivers shall make a payment, or be reimbursed by WKEC, as the case may be, all in accordance with the procedure set forth in Section 2.3.3 of the Lease. Such payment or reimbursement (as applicable) would be

reflected in a credit to or increase in the payment to Big Rivers contemplated in Section V.A.

L. Final Capital Asset Cost Payments:

In the Definitive Documentation the parties would provide for a mutually-acceptable methodology for “true up” of required Capital Asset and Station Two Improvement payments under the Phase II Agreements, including payments of the Big Rivers Contribution for Non-Incremental Capital Costs that are not for Major Capital Repairs and Henderson Non-Incremental Capital Costs that are not for Henderson Major Capital Repairs and payments for Incremental Capital Costs, Henderson Incremental Capital Costs, Major Capital Repairs and Henderson Major Capital Repairs. In the Definitive Documentation the parties may elect to provide for the payment of amounts required by the “true-up” contemplated by this Section III.L. by a post-Unwind Closing Date payment or by an increase or decrease of the payment contemplated by Section V.A.

M. Pro-Ration of Annual Rent and Monthly Margin Payment:

The monthly installment of the annual rental payment due from WKEC to Big Rivers pursuant to Section 2.3.2(a) of the Lease for the month in which the Unwind Closing Date occurs (assuming that monthly installment was paid by WKEC prior to that date) will be pro-rated as of the Unwind Closing Date based on the number of days elapsed from the first day of the month until the Unwind Closing Date, with the portion attributable to the period from and after the Unwind Closing Date being deducted from the payment to Big Rivers contemplated in Section V.A. below. The Monthly Margin Payment due from WKEC to Big Rivers pursuant to Section 2.3.2(b) of the Lease for the month in which the Unwind Closing Date occurs will be pro-rated as of the Unwind Closing Date based on the number of days elapsed from the first day of the month until the Unwind Closing Date with the portion attributable to the period prior to the Unwind Closing Date being added to the payment to Big Rivers contemplated in Section V.A. below. In addition if the Unwind Closing Date occurs on or before the 25th day of a month, the Monthly Margin Payment for the month prior to the month in which the Unwind Closing Date occurs will also be added to the payment to Big Rivers contemplated in Section V.A. below.

N. Pro-Ration of Minimum

The Transmission Use Credit contemplated by Section

Transmission Payment:

9.6 of the Participation Agreement and Section 6.6(c) of the Transmission Agreement shall be pro-rated based on the number of days elapsed from the commencement of the year in which the Unwind Closing Date occurs to the Unwind Closing Date, for purposes of determining whether LEM (or any other relevant LG&E Party) or Big Rivers is owed any credit for payments under the Transmission Services and Interconnection Agreement or the Power Purchase Agreement, respectively owing by Big Rivers or LEM (or any other relevant LG&E Party, including without limitation, as a permitted assignee of LEM), respectively, under either of such agreements as of the Unwind Closing Date. The pro-rata portion of the Transmission Use Credit shall be utilized in determining amounts owing under the Transmission Service and Interconnection Agreement and Power Purchase Agreement as of the Unwind Closing Date for purpose of any appropriate adjustment to the payment to Big Rivers contemplated by Section V.A.

O. Determination of Amounts Payable Under Power Purchase Agreement and Transmission Services and Interconnection Agreement:

In the Definitive Documentation the parties will determine a mutually acceptable procedure for determining accrued amounts owing on the Unwind Closing Date (a) by Big Rivers for power received through the Unwind Closing Date under the Power Purchase Agreement (including without limitation, for operating reserve-spinning reserve service and operating reserve-supplemental revenue service), (b) by Big Rivers for ancillary services from LEM (or any other LG&E Parties) through the Unwind Closing Date under the Transmission Services and Interconnection Agreement, and (c) by the LG&E Parties for transmission services received through the Unwind Closing Date under the Transmission Service and Interconnection Agreement. To the extent such unpaid obligations can be calculated by Big Rivers and the relevant LG&E Party or Parties as of the Unwind Closing Date, such amounts owing as of the Unwind Closing Date would be credited against or added to (as applicable) the cash payment to Big Rivers contemplated in Section V.A. The Definitive Documentation would provide for one or more payments by Big Rivers or the relevant LG&E Party or Parties (as applicable) following the Unwind Closing Date in respect of any such unpaid obligations that cannot be calculated by Big Rivers and such LG&E Party or Parties as of that date.

- P.** Liquidated damages Under Coleman Scrubber EPC Contract: Any liquidated damages payable pursuant to Section 7.1(a), (b) and (c) of the Engineering, Procurement and Construction Agreement for A Flue Gas Desulphurization System at Coleman Power Station between Wheelabrator Air Pollution Control Inc. and WKEC dated July 19, 2004 (the “Coleman Scrubber EPC Contract”) would be payable to WKEC. In the Definitive Documentation the parties will address the appropriate disposition of liquidated damages which might be payable pursuant to any other section of the Coleman Scrubber EPC Contract, in the event the condition precedent set forth in Section XIII.B.19 has not been satisfied as of the proposed Unwind Closing Date and Big Rivers elects to waive that condition precedent and to consummate the Transaction on the Unwind Closing Date.

IV. NEGOTIATION OF DEFINITIVE DOCUMENTATION

- A.** Definitive Documentation: The transactions contemplated in this Summary of Terms and Conditions would be effectuated pursuant to mutually-satisfactory definitive documentation among Big Rivers and the LG&E Parties, containing covenants, agreements, representations, warranties and closing conditions customary for transactions of the types contemplated herein, including without limitation, covenants, agreements, representations, warranties and closing conditions of the types expressly contemplated elsewhere in this Summary of Terms and Conditions (collectively, the “Definitive Documentation”). The Definitive Documentation would be in such forms and would contain such terms and conditions as are satisfactory to the parties in their sole discretion. The Definitive Documentation would include a guaranty by LG&E Energy of the obligations of the other LG&E Parties under the Definitive Documentation.
- B.** Mutual Releases: The Definitive Documentation would also include mutual releases of Big Rivers and the LG&E Parties from any claims or obligations which Big Rivers, on one hand, or any of the LG&E Parties, on the other hand, may have under (i) any of the Phase II Agreements or (ii) other agreements (other than the Definitive Documentation) among Big Rivers and any of the LG&E Parties relating to (a) the lease or operation of the

Generating Plants, (b) the sale and purchase of power and energy, (c) the transmission of energy, or (d) the transactions otherwise entered into by them in connection with the Participation Agreement, as amended, in each case other than such claims or obligations under the Phase II Agreements or any of such other agreements which the parties agree shall survive after the Unwind Closing Date and which will be specifically identified in the Definitive Documentation. Notwithstanding such mutual releases, the Definitive Documentation would include the indemnities contemplated by Section XII of this Summary of Terms and Conditions.

V. PAYMENT BY LG&E PARTIES

- A. Cash Payment by LG&E Parties:** The Definitive Documentation would provide for a payment by one or more of the LG&E Parties to Big Rivers of the sum of \$301,500,000.00 on the Unwind Closing Date in immediately available funds, subject to the potential adjustments contemplated in Sections III.C, E, F, K, L, M, N and O, and in Sections VII.C, D and F.
- B. Apportionment of Consideration:** The Definitive Documentation would attribute 89% of all consideration received by Big Rivers in connection with the Transaction to the release and discharge of one or more of the LG&E Parties from their respective obligations under the Power Purchase Agreement, the payment of such portion of the consideration to Big Rivers to be made by one of the LG&E Parties so released and discharged, and 11% of all consideration received by Big Rivers in connection with the Transaction to Big Rivers' assumption of the responsibility of one or more of the LG&E Parties to supply power for the Smelter loads to Kenergy, the payment of such portion of the consideration to Big Rivers to be made by one of the LG&E Parties that is correspondingly released and discharged from those supply obligations to Kenergy.
- C. Regulatory Compliance** The final structure and components of the Definitive Documentation described herein would be subject to change prior to the execution of Definitive Documentation, as necessary in order to comply with applicable legal or regulatory requirements, including PUHCA; provided, however, that no party would be required to proceed with a Transaction based on any such

revised structure or components of the Definitive Documentation (as proposed by any other party) if it believes such revisions would be materially adverse to it.

VI. SMELTER ARRANGEMENTS

On the Unwind Closing Date, and as a condition to the completion of the Transaction, the two separate Agreements for Electric Service dated July 15, 1998 between LEM (and/or its permitted assignee) and Kenergy Corp. (as successor in interest to Henderson Union Rural Electric Cooperative Corporation and Green River Electric Corporation), as amended, would be terminated, and LEM (and its permitted assignee) would be released and discharged from all obligations and liabilities under such agreements, including without limitation, all responsibility to supply Kenergy with the power with which Kenergy supplies any Smelter. Conversely, Kenergy would be discharged from its obligations to LEM (and, as applicable, to LEM's permitted assignee) under those agreements, other than the obligation to pay for power delivered thereunder through the Unwind Closing Date. Each of Southwire Company, NSA, Inc., Century Aluminum Company, Century Aluminum of Kentucky LLC, Alcan Corporation and Alcan Primary Products Corporation would also expressly release any third party beneficiary rights that they may have under those Agreements for Electric Service, as a condition to the completion of the Transaction. In connection with such termination, and as a condition to the completion of the Transaction, LEM (and, as applicable, its permitted assignee) would also be released from its obligations under each of the following:

- (a) The Agreement for Tier 3 Electric Service (2001-2002), dated as of July 15, 1998, as amended, between Kenergy and LEM;
- (b) The Agreement for Tier 3 Electric Service (2001-2005), dated as of July 15, 1998, as amended, between Kenergy and LEM;

- (c) The Security and Lock Box Agreement, dated as of July 15, 1998, among PNC Bank, N.A., LEM, Kenergy (as successor of Green River Electric Corporation), Southwire Company, Century Aluminum Company (as successor of Southwire Company) and Century Aluminum of Kentucky LLC (as successor of Southwire Company or Century Aluminum Company);
- (d) The Security and Lock Box Agreement, dated as of July 15, 1998, among PNC Bank, N.A., LEM, Kenergy (as successor of Henderson Union Electric Cooperative Corp.), Alcan Corporation (as successor of Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor of Alcan Corporation);
- (e) The Assurances Agreement, dated as of July 15, 1998, as amended, among LEM, Southwire Company, Century Aluminum Company (as successor of Southwire Company) and Century Aluminum of Kentucky LLC (as successor of Century Aluminum Company);
- (f) The Special Assignment Agreement, dated as of March 26, 2001, among Southwire Company, Century Aluminum of Kentucky LLC, Century Aluminum Company and LEM;
- (g) The Assumption and Consent Agreement, dated as of August 1, 2003, among Alcan Primary Products Corporation, Station Two Subsidiary, LEM, WKEC and Kenergy;
- (h) The Assurances Agreement, dated as of July 15, 1998, as amended, among LEM, Alcan Corporation (as successor of Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor of Alcan Corporation);

- (i) The Systems Disturbance Agreement, dated as of July 15, 1998, among Big Rivers, Station Two Subsidiary, WKEC, Kenergy (as successor of Henderson Union Electric Cooperative Corp. and Green River Electric Corporation), Alcan Corporation (as successor of Alcan Aluminum Corporation), Alcan Primary Products Corporation (as successor of Alcan Corporation), Southwire Company, Century Aluminum Company (as successor of Southwire Company) and Century Aluminum of Kentucky LLC (as successor of Century Aluminum Company);
- (j) The Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LEM, Southwire Company, Century Aluminum Company (as successor of Southwire Company) and Century Aluminum of Kentucky LLC (as successor of Century Aluminum Company);
- (k) The Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, as amended, among LEM, Alcan Corporation (as successor of Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor of Alcan Corporation);
- (l) The Systems Disturbance Agreement, dated as of April, 2001, among Big Rivers, Kenergy, Willamette Industries, Inc., Station Two Subsidiary and WKEC; and
- (m) Any other agreements or instruments between or among LEM, Kenergy and/or any Smelter relating to or arising out of the agreements identified in (a) through (l) above or the transactions contemplated therein.

In the event, following the execution of the Letter of Intent, it is determined that one or more other agreements between any LG&E Party, on the one hand, and Kenergy or either Smelter, on the other hand, not identified in this Article VI exists, the Definitive Documentation would reflect that the release of that LG&E Party of and from such agreement(s) would be a condition to the consummation of the Transaction in the same manner as for the agreements and instruments identified in this Article.

On the Unwind Closing Date, LG&E Energy would also be released from its obligations under two Guaranties, each dated July 15, 1998, to Green River Electric Corporation and Henderson Union Electric Cooperative Corporation Corp., respectively, and from its obligations under the two Guaranties, each dated July 15, 1998, to (i) Southwire Company, Century Aluminum Company (as successor of Southwire Company) and Century Aluminum of Kentucky LLC (as successor of Southwire Company or Century Aluminum Company), and (ii) Alcan Corporation (as successor of Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor of Alcan Corporation).

Effective as of the Unwind Closing Date, the Agreements for Electric Service between Kenergy and the Smelters would be appropriately amended or, alternatively, new contracts would be executed, to reflect the replacement of LEM (or its permitted assignee) by Big Rivers as the wholesale supplier to Kenergy for the Smelter loads. Big Rivers and Kenergy would execute contracts which reflect Big Rivers' contractual obligation to supply the Smelter loads and the terms of the Kenergy Agreements for Electric Service with the Smelters.

VII. STATION TWO ARRANGEMENTS

A. Termination of Agreements and LG&E Energy Guarantee:

As a condition precedent to the completion of the Transaction, on the Unwind Closing Date, all rights and obligations of Big Rivers, the City of Henderson and each of the relevant LG&E Parties under each of the following documents, including all amendments thereto, would be terminated pursuant to one or more definitive, mutually-satisfactory agreements among Big Rivers, the relevant LG&E Parties and the City of Henderson (which agreements may constitute Definitive Documentation for

purposes of the Parties' respective rights and obligations to be developed as contemplated elsewhere in this Summary of Terms and Conditions), and any possessory interest in real or personal property created thereunder would terminate:

1. the Station Two Agreement;
2. the Station Two G&A Allocation Agreement dated July 15, 1998 among the City of Henderson, Big Rivers and Station Two Subsidiary;
3. the Agreement with Respect to Operating Reserves and Amendment No.1 to Systems Reserve Agreement dated July 15, 1998 among the City of Henderson, Big Rivers and LEM;
4. the Assignment and Assumption Agreement (Station Two), dated July 15, 1998, between Big Rivers and Station Two Subsidiary;
5. the Deed of Easement and Right-of-Way made July 15, 1998, by and between Big Rivers, as grantor, and Station Two Subsidiary, LEM and WKEC, as grantees;
6. the Deed of Easement and Right-of-Way, dated July 15, 1998, by and between the City of Henderson, as grantor, and Station Two Subsidiary, LEM and WKEC, as grantees;
7. the Acknowledgement and Consent, dated July 15, 1998, among the City of Henderson, Kentucky, the City of Henderson Utility Commission and LEM;
8. the Designated Representative/Alternate Designated Representative Appointment Agreement, entered into August 27, 2002, by and between the City of Henderson, Big Rivers and Station Two Subsidiary;
9. the Deed of Easement dated June 1, 1999, among the City of Henderson, Big Rivers and certain LG&E Parties relating to the Reid Station gas line; and

10. Letter Agreement dated October 20, 2003 relating to the sharing of costs for the Reid Station gas line.

In the event, following the execution of the Letter of Intent, it is determined that one or more other agreements between any LG&E Party, on the one hand, and Big Rivers or the City of Henderson, on the other hand, relating to Station Two but not identified in this Article VII exists, the Definitive Documentation would reflect that the release of that LG&E Party of and from such agreement(s) would be a condition to the consummation of the Transaction in the same manner as for the agreements and instruments identified in this Article.

On the Unwind Closing Date and as a further condition to the consummation of the Transaction, (a) the relevant LG&E Parties would be released and discharged by Big Rivers and the City of Henderson from further obligation or liability under any of the agreements or instruments described above and from the Grant of Rights and Easements, dated as of April 1, 2005, among those parties, (b) the relevant LG&E Parties would be released and discharged by the City of Henderson and Big Rivers from further obligation or liability under each of the Station Two Contracts, as amended, and, in the case of the City of Henderson, under the Agreement for Interim Funding Station Two SCR System, dated May 7, 2002, as amended, (c) the relevant LG&E Parties would be released and discharged by Big Rivers, the City of Henderson, the Ambac Entities, RUS, Credit Suisse, the Economically Defeased Lease Parties and CFC from further obligation or liability under the Agreement (commonly referred to as the "Subordination Agreement"), dated as of April 1, 2005, among those parties, (d) LG&E Energy would be released from its obligations under the Guarantee Agreement [Station Two Obligations] dated July 15, 1998 in favor of the City of Henderson, (e) Big Rivers would be released and discharged by the City of Henderson from further obligation or liability under any of the foregoing agreements or inducements on account of any breach or default thereof by any LG&E Party occurring on or before the Unwind Closing Date, and (f) the LG&E Parties would be released and discharged by the City of Henderson from further obligation or liability for any

damages incurred by the City of Henderson resulting from or arising out of any of LG&E Party's use, operation, maintenance, repair or upkeep of Station Two or any "joint use facilities" contemplated in the Joint Facilities Agreement included in the Station Two Contracts.

For all purposes of the Definitive Documents, the term "Station Two Contracts" would also include such contracts as they may be amended by the 2005 Amendments to Contracts among the City of Henderson, Big Rivers, Station Two Subsidiary and LEM, regardless of when such amendments become effective.

B. Assumption of Station Two Contracts by Big Rivers:

Upon termination of the Station Two Agreement and the other agreements referenced in Section VII.A, Big Rivers would again be solely responsible for all obligations under the Station Two Contracts accruing from and after the Unwind Closing Date, including without limitation, the obligations for the operation and maintenance, and for the purchase of the output, of Station Two under the terms of the Station Two Contracts.

C. Assignment of Permits and Certain Contracts:

The Definitive Documentation would identify all Permits and all fuel and reagent supply agreements and other agreements with respect to Station Two Subsidiary's operation of Station Two which will be conveyed, in whole or in part, by Station Two Subsidiary to Big Rivers on the Unwind Closing Date. This would include certain Station Two Intangible Assets (as defined in the Station Two Agreement) to which Station Two Subsidiary remains a party as of the Unwind Closing Date. On the Unwind Closing Date, Big Rivers will assume all of Station Two Subsidiary's obligations under those permits and agreements assigned to it accruing from and after the Unwind Closing Date. The LG&E Parties and Big Rivers would agree in the Definitive Documents to use their reasonable best efforts to obtain any third party consents, including governmental approvals, required for such conveyance and assumptions. Such assignment of permits and agreements shall not result in any payment by Big Rivers to any LG&E Party. The LG&E Parties shall not be required to make aggregate payments in excess of \$1 million to third parties collectively (whether directly or through Big Rivers) in order to obtain such parties' consents to the assignment to Big Rivers and releases of

the relevant LG&E Party of or from any permit or agreement as contemplated above. There shall be deducted from such \$1 million commitment on the part of the LG&E Parties any payments made by them (whether directly or through Big Rivers) in order to obtain third party consents or releases as contemplated in Sections III.E., G., H. and I. Contracts for fuel and reagent supply and other agreements with respect to the operation of Station Two, including any remaining Station Two Intangible Assets, which are not to be assigned and assumed will be identified on a schedule in the Definitive Documentation. The contracts which are not assigned will either be terminated or the LG&E Parties will remain obligated under them. The Definitive Documentation would include as a condition precedent to the closing of the transactions on the Unwind Closing Date, that the relevant LG&E Parties must be fully released and discharged from any contracts and permits with respect to Station Two assigned to and assumed by Big Rivers on the Unwind Closing Date as contemplated above; provided, that except with respect to certain contracts and permits identified by the LG&E Parties in the Definitive Documentation on the date of execution of the Definitive Documentation, the release of which will remain a condition preceding to the consummation of the Transaction, Big Rivers may provide the relevant LG&E Parties with a written indemnification covenant in respect of one or more of such assumed contracts, in lieu of being released and discharged from the same. To the extent Big Rivers declines to assume and undertake performance of a particular contract of an LG&E Party with respect to Station Two pursuant to the Definitive Documentation, and the LG&E Parties consider the burden of retaining and performing that contract following the Unwind Closing Date to be materially adverse to them (or any of them) or to otherwise materially adversely affect the overall value of the Transaction to the LG&E Parties, the LG&E Parties would reserve the right not to execute and deliver the Definitive Documentation unless an appropriate adjustment satisfactory to them and Big Rivers is made to the Unwind Closing Date cash payment(s) by one or more of the LG&E Parties pursuant to Section V.A., or unless other action satisfactory to the LG&E Parties and Big Rivers is taken to address that issue and is reflected in the Definitive Documentation or an amendment thereto. The provisions of this Section VII.C. would not

apply to the Station Two Contracts.

D. Henderson Incremental Environmental O&M:

On the Unwind Closing Date, the adjustment for the difference, if any, between Big Rivers' Henderson Incremental Environmental O&M Share of the Actual Henderson Environmental O&M (as defined in the Station Two Agreement) for the Contract Year (as defined in the Station Two Operating Agreement) in which the Unwind Closing Date occurs (and for all previous Contract Years, if not previously the subject of the relevant adjustment and payment) and the actual payments made by Big Rivers during such Contract Years shall be made, and Big Rivers shall make a payment, or be reimbursed by Station Two Subsidiary, as the case may be, all in accordance with the procedure set forth in section 9.9 of the Station Two Agreement. Such adjustment will be reflected in a credit to or increase in the payment to Big Rivers contemplated by Section V.A.

E. Station Two Budget True Up:

On the Unwind Closing Date, the adjustment for actual operation and maintenance expenses for Station Two required by section 16.6 of the Station Two Operating Agreement shall be made, treating the Unwind Closing Date as the end of a Contract Year (as defined in the Station Two Operating Agreement), and the appropriate payments by the City of Henderson or Station Two Subsidiary, as the case may be, will be made in accordance with the provisions of said section 16.6. In the Definitive Documentation the parties may elect to provide for the payments of amounts described in this Section VII.E. by post-Unwind Closing Date payment rather than through an increase or decrease of the payment(s) made by one or more of the LG&E Parties contemplated by Section V.A.

F. Final Station Two Improvements Cost Payments:

See Subsection III.L. above.

- G. Close out of Station Two SCR Contract:** The Definitive Documentation would provide that any Liquidated Damages for Performance or Liquidated Damages for Schedule payable pursuant to Article 3 or Article 4 of the Henderson Station Two SCR Project (Contract SCR-01, SCR Equipment and Erection, Henderson Station Two) dated May 9, 2002 between the City of Henderson and Alstom Power Inc. (the "Station Two SCR Contract") paid on or prior to the Unwind Closing Date will be applied in accordance with the Station Two Contracts and the Station Two Agreement. The Definitive Documentation will provide that the LG&E Parties will disclaim to Big Rivers any right to any liquidated damages payable for failure to achieve any "Value Test B" performance guarantee provided in Section 3.01 of the Station Two SCR Contract in the event the Unwind Closing Date occurs prior to the date on which any payments may be required by the vendor under such contract.

VIII. TRANSMISSION

- A. Transmission Reservations:** On the Unwind Closing Date, the LG&E Parties would assign to Big Rivers all transmission reservations for both firm and non-firm transmission services over the Big Rivers transmission system, which were made for the purpose of transporting power and energy generated by the Generating Plants.
- B. TVA Transmission Path:** On the Unwind Closing Date, the LG&E Parties would relinquish to Big Rivers all rights to transmission service currently held by the LG&E Parties from Big Rivers Control Area across TVA's transmission system. Big Rivers would pay to the LG&E Parties an amount equal to any prepayments or deposits made by the LG&E Parties for such transmission service prior to the Unwind Closing Date.

IX. POST-UNWIND DATE OPERATIONS AND SERVICES

Pursuant to a mutually-satisfactory support services agreement to be included as a part of the Definitive Documentation, the LG&E Parties would agree to provide certain support services to Big Rivers for a period of one (1) year (in the case of Subsection A. below) and eighteen (18) months (in the case of Subsections B. and C. below) following the Unwind Closing Date, for the fees and upon and subject to the other terms and conditions set forth therein. The parties may determine that such support services should begin prior to the Unwind Closing Date, in which event the terms of such pre-closing services (including the fees and expense reimbursements, if

any, to be paid by Big Rivers for such pre-closing services) would be set forth in the Definitive Documentation. The parties further anticipate that the support services agreement would provide for the following:

A. Generation Dispatch Agreement:

The provision by one or more LG&E Parties of certain generation dispatching, scheduling and related services associated with the Generating Plants. It is expected that the services required will be similar to the services required by LEM and provided by Big Rivers under the Generation Dispatching Service Agreement. In connection with the negotiation of the Definitive Documentation, Big Rivers and the LG&E Parties would agree on appropriate terms and conditions for the provision of those services, including an appropriate payment by Big Rivers for such services.

B. Information Technology:

The provision by WKEC to Big Rivers of certain pre-existing employee training and materials in connection with the operation of any of the software to be made available to Big Rivers as Intellectual Property as contemplated in Section III.H., and the provision by one or more LG&E Parties of certain administrative support services and functions utilizing the Restricted IP contemplated in that Section III.H., in each case to the extent the relevant LG&E Party has received all vendor consents or approvals that may be required for the same. In connection with the negotiation of the Definitive Documentation, Big Rivers and the LG&E Parties would agree upon appropriate terms and conditions for the provision of those services, including an appropriate fee to be paid for the same. The parties anticipate that the fee to be paid by Big Rivers for such services would be limited to the actual costs incurred by the LG&E Parties (or any of them) to provide the same, without margin or mark-up, without any inter-LG&E company affiliate allocation of costs other than the actual costs incurred by Affiliates of an LG&E Party in procuring and providing such services to that LG&E Party or to Big Rivers on its behalf, and without the allocation to Big Rivers (through such fees) of any home office or headquarters general or administrative costs or expenses of that LG&E Party; provided, that any royalties or payments that may be required to be paid to any third party software or other Intellectual Property licensors or sublicensors (in excess of the normal royalties or payments required to be paid to such licensors or sublicensors pursuant to the relevant licenses or sublicenses), in order to obtain the permission

of those licensors or sublicensors for the use of their respective Intellectual Property for the benefit of Big Rivers pursuant to the support services agreement, would be excluded from the fees payable by Big Rivers and would be governed by the provisions of Section III.H. of this Summary of Terms and Conditions.

- C. Other Services, Equipment or Property Resulting from Due Diligence: In connection with Big River's completion of the due diligence process relating to the Transaction, other services, equipment or intangible property may be identified for the LG&E Parties to make available to Big Rivers for a reasonable period following the Unwind Closing Date. The terms and conditions upon which those services would be provided to Big Rivers would be set forth in the support services agreement.

X. TAXES

- A. Apportionment of Sales and Use Taxes: The Definitive Documents would provide that the LG&E Parties would pay any and all sales and use Taxes imposed on the transfers of Inventory, Personal Property, contracts relating to operation and maintenance of the Generating Plants, real property, equipment leases, Intellectual Property, permits, authorizations, SO2 Allowance and NOx Allowances as contemplated by Section III of this Summary of Terms and Conditions, and that the LG&E Parties would become responsible for sales or use taxes, if any, imposed by reason of Station Two Subsidiary's, LEM's, WKE Corp's or their respective permitted assignee's relinquishment of its rights under or pursuant to the Station Two Contracts as contemplated in Section VII of this Summary of Terms and Conditions; provided, that a condition to the obligation of the LG&E Parties to consummate the Transaction would be their receipt of a satisfactory letter ruling from the Kentucky Revenue Cabinet exempting the LG&E Parties from such sales and use taxes (See Subsection XIII.A.12 below).
- B. Apportionment of Property Taxes: The Definitive Documents would provide that Taxes assessed, levied or exacted on the Assets for the calendar year in which the Unwind Closing Date occurs shall be apportioned between the period prior to the occurrence of the Unwind Closing Date and the period from and after the Unwind Closing Date based on the number of days in each such period. A fraction of such property Taxes, the numerator of which is the number of days in the period

prior to the Unwind Closing Date and the denominator of which is 365, shall be paid and apportioned in accordance with section 11.2 of the Participation Agreement. The remainder of the property Taxes for the year in which the Unwind Closing Date occurs shall be paid by Big Rivers. The apportionment provided by this paragraph shall be effected regardless of when such property Taxes are invoiced or paid.

- C. Unemployment and Worker's Compensation Taxes: The LG&E Parties would be responsible for all unemployment Taxes and workers' compensation premiums for the period from the Effective Date to the Unwind Closing Date in respect of all employees hired by Big Rivers regardless of when such Taxes and premiums are invoiced or paid. Big Rivers would be responsible for all unemployment Taxes and workers' compensation premiums for the period from and after the Unwind Closing Date in respect of all employees hired by Big Rivers, regardless of when such Taxes and premiums are invoiced or paid.
- D. Review of Requests for Tax Rulings: The LG&E Parties would permit Big Rivers to review and comment in a timely manner upon any ruling requests filed by any LG&E Party for state or federal tax rulings in connection with the Transaction prior to filing such requests.

XI. PERSONNEL MATTERS

The Definitive Documentation would provide that on and after the Unwind Closing Date, Big Rivers would be permitted to, but would not be obligated to, employ any or all employees of WKEC, LEM or Station Two Subsidiary still employed by those LG&E Parties as of the Unwind Closing Date other than those employees identified on an exhibit to the Definitive Documentation. The LG&E Parties would have no obligation to Big Rivers in the event any of those employees elected for any reason not to accept employment with Big Rivers, however. The Definitive Documentation would address in more detail issues with respect to employee transfer. In no event would Big Rivers be responsible for any unfunded liabilities under any defined benefit plan which Big Rivers may assume on the Unwind Closing Date. The Definitive Documents would provide that the LG&E Parties shall be responsible for any pre-Unwind Closing Date benefit claims of any employee of the LG&E

Parties hired by Big Rivers. In no event would Big Rivers be obligated to hire anyone who is on long-term disability with WKEC, LEM or Station Two Subsidiary. The Definitive Documentation would provide that, on the Unwind Closing Date, the LG&E Parties will transfer to or for the benefit of Big Rivers the unemployment reserve maintained by them or any of them with the Commonwealth of Kentucky to the extent it relates to the employees transferred to Big Rivers. The parties would agree in the Definitive Documentation upon mutually acceptable timetables and processes (a) for initiating and conducting discussions with the collective bargaining units for the employees of the LG&E Parties concerning new collective bargaining agreements between Big Rivers and such collective bargaining units, and (b) for addressing other employee transition and retention issues.

XII. INDEMNITIES

A. Unwind Environmental Audit:

The LG&E Parties and Big Rivers would jointly retain the Environmental Consultant to commence and complete an environmental survey of the Generating Plants and the Real Property at the earliest practical time following the execution of the Definitive Documentation (“Unwind Environmental Audit”). The Unwind Environmental Audit would have a scope and would be conducted utilizing guidelines agreed to by Big Rivers and the LG&E Parties. The report issued by the Environmental Consultant on the basis of the Unwind Environmental Audit (the “Unwind Environmental Audit Report”) would be formatted in a manner agreed to by Big Rivers and the LG&E Parties. The Unwind Environmental Audit Report would not contain an opinion or assessment by the Environmental Consultant as to the time or period of time at or during which any particular condition, release, waste or violation of Environmental Laws identified in the Unwind Environmental Audit Report occurred, as to which party was responsible for such condition, release, waste or violation, or as to whether such condition, release, waste or violation was identified in the Baseline Environmental Audit Report, and the parties would instruct the Environmental Consultant accordingly. The parties would further agree that neither the Environmental Consultant nor any of its employees, officers or

contractors involved in either the Baseline Audit or the Unwind Environmental Audit, or in the development of the Baseline Environmental Audit Report or the Unwind Environmental Audit Report, would be called by any of the parties to testify (whether as an expert witness or material witness) in any litigation proceeding or arbitration proceeding between any LG&E Party and Big Rivers (or their respective successors or assigns) regarding their respective obligations to each other (if any) under the environmental indemnification commitments or representations described in Section XII.B, below, other than testimony given for the sole limited purposes of explaining the contents of the Baseline Environmental Audit Report or the Unwind Environmental Audit Report or explaining the methodologies or procedures followed in conducting the Baseline Audit or the Unwind Environmental Audit, nor would any party seek to submit as evidence in any such proceeding any work papers or data assembled or distributed by Woodward-Clyde International-Americas or the other Environmental Consultant pursuant to the Baseline Audit or the Unwind Environmental Audit other than the Baseline Environmental Audit Report and the Unwind Environmental Audit Report.

B. Environmental Indemnities and Representations:

1. Indemnity for Hazardous Substances.

The Definitive Documentation would contain indemnification, hold harmless and related provisions comparable to those set forth in Sections 14.1, 14.2, 14.3, 14.4, 14.6 and 14.7 of the Participation Agreement and Section 10.15(j) of the Station Two Agreement, pursuant to which Big Rivers or WKEC (as the case may be) would agree as of the Unwind Closing Date to indemnify and hold harmless the LG&E Parties and their Affiliates, on the one hand, and Big Rivers, on the other hand, from and against certain environmental risks described in Section 14.1, 14.2, 14.7 and 10.15(j) (as applicable), but subject to certain limitations on those covenants as contemplated in those sections (substituting the Unwind Environmental Audit Report for the End of the Term Baseline Audit Report contemplated in Section 14 of the Participation Agreement). The above-described provisions of the Definitive Documentation would not, however, apply to incidental, consequential or other special damages that may have been or may be suffered

or incurred by Big Rivers or an LG&E Party, and would not include a provision comparable to the second (2nd) sentence of Section 14.2 of the Participation Agreement, which reads: “Nothing contained in this Section 14.2 shall limit Big Rivers’ rights (if any) to indemnity from Leasco or any of its Affiliates under any Operative Documents by reason of any of their failure to exercise Prudent Utility Practices.” The above-described environmental indemnities in the Definitive Documentation would preserve the agreed stipulations in Exhibit A to the Baseline Study Agreement with respect to the allocation of responsibility for certain conditions identified in such Exhibit A. In addition to the covenants described above, it is the intention of the parties to include in the Definitive Documentation one or more covenants that allocate on a mutually-satisfactory basis, as between the LG&E Parties on the one hand and Big Rivers on the other hand, responsibility for environmental conditions at, on, under or across the Generating Plants or the Real Property which were not identified in Schedule 5.1.19 to the Participation Agreement, not stipulated in writing by the parties on Exhibit A attached to the Baseline Study Agreement, and not identified in the Baseline Environmental Audit Report, and which may not be identified in a disclosure schedule to the Definitive Documentation, may not be stipulated in writing by the parties as of the Unwind Closing Date, may not be identified in the Unwind Environmental Audit Report, and may not be the subject of an express indemnification or hold harmless covenant of the types contemplated below in this Subsection B. The covenants described in this Subsection B.1 would be the exclusive remedy for claims with respect to Hazardous Substances or other waste (including without limitation, garbage or refuse), but would not apply to claims (whether or not relating to Hazardous Substances or other waste) for damages that are or would become subject to indemnification under Sections B.2., B.3. or B.5. below.

2. Indemnity and/or Reservation of Rights for Certain Existing Conditions Identified in Phase II Agreements or Alleged Following the Effective Date.

- (a) The Definitive Documentation would contain provisions comparable to Sections

23.3, 23.4 and 23.5 of the Participation Agreement (adopted pursuant to the Second Amendment to New Participation Agreement).

- (b) The Definitive Documentation would contain a provision comparable to Section 7 of the letter agreement dated July 17, 1998, among WKEC, Station Two Subsidiary, LEM and Big Rivers, affording those LG&E Parties certain protections with respect to various risks associated with matters described in Item No. 157 of Schedule 5.1.19 to the Participation Agreement.
- (c) The Definitive Documentation would contain a mutually-satisfactory provision extending the indemnification and any appropriate reservation of rights under the Wilson Run-Off Pond Settlement Agreement beyond the Unwind Closing Date.

3. Treatment of Certain Potential Conditions.

The Definitive Documentation would also include mutually-satisfactory arrangements for assessing any potential liabilities associated with the conditions identified in clauses (a) – (h) below and whether remediation may be required to address such conditions. The assessment and remediation may or may not involve mutually-satisfactory indemnification or hold harmless provisions by the LG&E Parties to be effective upon the consummation of the Transaction. The mutually-satisfactory, indemnification or hold harmless provisions described in the preceding sentence, if relevant, would be upon such terms and conditions, and subject to such limitations and exclusions, as shall be agreed upon by the parties in the Definitive Documentation, and would be in lieu of any other indemnification rights or misrepresentation rights that would otherwise be available to Big Rivers with respect to those identified risks pursuant to any other provisions of the Definitive Documentation.

- (a) Ash ponds and/or landfill groundwater monitoring issues at any of the Real

Property. This provision would be reconciled with Sections 23.3 and 23.4 of the Participation Agreement.

- (b) Ash pond groundwater issues specifically related to WKEC's resumed use of "retired" Coleman "old north ash pond" or the "old south ash pond". This provision would be reconciled with Sections 23.3 and 23.4 of the Participation Agreement.
- (c) Wilson fuel oil spill, spring 2004.
- (d) Conditions at Central Lab & other buildings conveyed to Big Rivers in accordance with Section III.F.
- (e) WKEC's hauling and disposal of Coleman fly ash and bottom ash for "beneficial re-use" at off-site, third-party locations. This provision would be reconciled with Section 23.4 of the Participation Agreement.
- (f) Opacity issues in connection with all Generating Plants including Coleman opacity (particulate) issues with the City of Tell City, Indiana and potential Coleman opacity (SO₃ plume) issues with the City of Tell City, Indiana or the City of Cannelton, Indiana as a result of Coleman FGD operation, other than opacity issues specifically allocated to Big Rivers pursuant to any Phase II Agreement. This provision would be reconciled with Sections 14.7 and 23.5 of the Participation Agreement.
- (g) Potential for any "un-permitted" material placed in the Wilson or Green special waste landfills by WKEC. This provision would be reconciled with Section 23.3 of the Participation Agreement.
- (h) Any WKEC commitments to KDWQ regarding the "full" condition of the Coleman "new ash pond". This provision would be reconciled with Section 23.4 of

the Participation Agreement.

4. Environmental and Certain Other Representations:

- (a) The Definitive Documents would contain a list of all material Permits which were obtained or amended subsequent to the Effective Date. In the Definitive Documentation, the LG&E Parties would represent that, on the Unwind Closing Date, except as otherwise described in the Definitive Documentation: (i) except as identified in the Unwind Environmental Audit Report, each Permit relating to the operation or maintenance of any Generating Plant is in full force and effect, and (ii) to the knowledge of the LG&E Parties, except to the extent such noncompliance is attributable to conditions or circumstances (1) existing as of or prior to the Effective Date, (2) identified in Schedule 5.1.19 to the Participation Agreement, (3) identified in the agreed stipulations of the parties as of the Effective Date, (4) identified in the Baseline Environmental Audit Report, or (5) identified in the Unwind Environmental Audit Report (conditions or circumstances identified in clauses (1)-(5), the “Excepted Conditions”), the LG&E Parties, or the Generating Plants, are in material compliance with the terms of each Permit relating to the operation or maintenance of the Generating Plants;
- (b) In the Definitive Documentation, the LG&E Parties would represent that on the Unwind Closing Date, except as disclosed in the Definitive Documentation, and except for such non-compliance as is attributable to an Excepted Condition, to the knowledge of the LG&E Parties, the LG&E Parties’ operation of the Generating Plants and use of the Assets and Station Two Assets are in material compliance with all applicable laws, rules,

orders, regulations, or restrictions, except noncompliance that does not and will not materially interfere with the operation of the Generating Plants nor result in the imposition of any material civil or criminal fines or penalties on Big Rivers or any LG&E Party.

- (c) In the Definitive Documentation the LG&E Parties would represent that, on the Unwind Closing Date, except as disclosed in the Definitive Documentation, in the Unwind Environmental Audit Report, in Schedule 5.1.19 of the Participation Agreement, in the agreed stipulations of the parties as of the Effective Date, or in the Baseline Environmental Audit Report, no LG&E Party has received any notice of material violation or notice of material noncompliance with applicable laws, rules, orders, regulations, or restrictions, which have not been cured.
- (d) In the Definitive Documentation, the LG&E Parties would represent that, on the Unwind Closing Date, except as disclosed in the Definitive Documentation and except for Excepted Conditions and for such as may relate to or have resulted from any Excepted Conditions, to the knowledge of the LG&E Parties, (i) there is no pending administrative or judicial investigation, proceeding or action or any outstanding claim, demand, order, administrative or legal proceeding or settlement or consent decree or order under or relating to any Environmental Law and relating to or involving any Generating Facility, nor is there now, nor has there been, any pattern of violations that would lead to any of the foregoing, (ii) no Hazardous Substance or other waste (including without limitation garbage and refuse) have been disposed of, spilled, leaked or otherwise released at, on, under or from the Facilities, Station

Two, the Real Property, or the land subject to the Rights-of-Way, the Real Property Leases, or any other properties and (iii) there are no underground storage tanks at the Facilities or at Station Two or on the Real Property or the land subject to the Rights-of-Way or the Real Property Leases other than underground storage tanks at the Facilities or at Station Two or on the Real Property or the land subject to the Right-of-Way or the Real Property Leases on the Effective Date.

In the Definitive Documentation the parties would define the phrase "to the knowledge of". The representations provided in this Section XII B.4. would expire on a date five years following the Unwind Closing Date. Big Rivers would not be entitled to recover any incidental, consequential or special damages by reason of a breach of any representation or warranty described above (including lost profits), other than damages constituting the cost of replacement power attributable to any outage or curtailment of operation of any Generating Plant reasonably required in consequence of the conditions or circumstances constituting a breach of any such representation or warranty; provided, that Big Rivers would agree to use its commercially reasonable efforts to mitigate such replacement power costs by completing the remedial action requiring that outage or curtailment at the earliest practicable time consistent with prudent utility practice. For purposes of this Subsection XII.B.4 the phrase "replacement power" means such power as is necessary for Big Rivers to meet all its contractual obligations to its member cooperatives and its obligations under all other wholesale contracts for the sale by Big Rivers of power existing at the time of the required outage or curtailment, and would be measured by the net incremental cost, if any, of replacing the generation from the Generating Plant affected by the circumstances or conditions constituting such breach of representation or warranty. The LG&E Parties would not be subject to liability for breach of their representations made in this Subsection XII.B. if the conditions, events or circumstances giving rise to the misrepresentation, or the damages resulting therefrom, are the subject of an indemnification obligation described

in Subsection XII.B.1., XII.B.2., XII.B.3 or XII.B.5.

5. Responsibility for “New Source Review” Provisions of Clean Air Act.

The Definitive Documentation would include a mutually-satisfactory, reciprocal indemnification and hold harmless covenant as of the Unwind Closing Date with respect to any “net costs and expenses” (including any fines or penalties and the cost of any pollution control equipment, such as wet scrubbers, low NOx burners or baghouses) that may become due by reason of a failure to comply with the “New Source Review” provisions of the Clean Air Act in consequence of conditions, circumstances or the method of operating, maintaining, repairing or replacing any Generating Plant (or component(s) thereof) during the period through the Unwind Closing Date regardless of whether such conditions, circumstances or method of operation are attributable, in whole or in part, to the period prior to or after the Effective Date. Subject to the following sentence, responsibility for any such “net costs and expenses” in respect of the “New Source Review” provisions of the Clean Air Act would be apportioned on the basis of the LG&E Parties being responsible for 80% of such “net costs and expenses” and Big Rivers being responsible for 20% of such “net costs and expenses.” The calculation of “net costs and expenses” for purposes of allocating such responsibility to the parties would include, among other factors, a component intended by the parties to recognize the tangible benefits that may be derived by one or more of the parties by reason of the costs and expenses that are incurred in order to address the particular New Source Review deficiency, such as, but not limited to, the benefits to be derived by Big Rivers following the Unwind Closing Date in the form of lower costs through its use of a new baghouse system required to be installed as a result of that deficiency. The foregoing New Source Review indemnification and hold harmless provisions would be in lieu of any other indemnification rights or misrepresentation rights that would otherwise be available to Big Rivers with respect to that risk pursuant to any other provisions of the Definitive Documentation. The indemnity contemplated by this paragraph relating to New Source Review would expire upon the expiration of any applicable statute of limitations relating to the conditions, circumstances or

the method of operating, maintaining, repairing or replacing any Generating Plant (or component(s) thereof).

In the event it shall be determined that the Generating Plants require additional pollution control equipment or that additional costs or expenses must be incurred, in either case pursuant to the New Source Review provision of the Clean Air Act in consequence of conditions, circumstances or the method of operating, maintaining or repairing any Generating Plant (or component(s) thereof) prior to and subsequent to, the Unwind Closing Date, responsibility therefor shall be allocated by the Definitive Documentation between the LG&E Parties and Big Rivers on an equitable basis.

C. LG&E Party General
Indemnity of Big Rivers:

Among other customary indemnification covenants for a breach of the Definitive Documentation, the Definitive Documentation would include provisions comparable to those set forth in Section 18.2 of the Participation Agreement, pursuant to which WKEC would, as of the Unwind Closing Date, indemnify and reimburse Big Rivers for certain risks as described in that Section, but subject to the limitations set forth in that Section. However, the indemnity contemplated by this Section XII.C. would exclude incidental, consequential and other special damages that may have been or may be incurred by Big Rivers as contemplated elsewhere in the Participation Agreement, and would not apply to claims or risks relating to the physical condition or state of repair of the Generating Plants, the Real Property or the Tangible Assets (or the real property on which Station Two is situated) as of the Unwind Closing Date. In addition, the indemnification covenant contemplated in this Section XII.C. would not apply to claims or risks that are expressly made the subject of another express environmental representation or warranty or that is the subject of another indemnification covenant provided for in the Definitive Documentation. The indemnity contemplated in this Subsection C would include an express obligation of the LG&E Parties to indemnify and hold Big Rivers harmless from any claims of the City of Henderson against Big Rivers arising out of a breach or default by an LG&E Party under or pursuant to the Station Two Agreement or any Station Two Contract (to the extent that breach or default did not result from the action or omission of Big Rivers or its employee, agent,

representative or contractor) and would include an express obligation to indemnify and hold Big Rivers harmless from any claims of third parties relating to commodities services or leasehold interests provided under the contracts assigned to and assumed by Big Rivers pursuant to Sections III.E., III.H., III.I. and VII.E or the Equipment Leases assigned to Big Rivers pursuant to Section III.G., in either case which relate to periods prior to the Unwind Closing Date. The Definitive Documents would include an express indemnity of WKEC to Big Rivers on terms satisfactory to the parties of claims of Big Rivers' employees, WKEC employees or third parties in respect of the occurrence of Legionelle pneumophia or other bacteria emanating from the operation of the cooling towers or spray mist eliminators at Plant Wilson or Plant Green in the period from the Effective Date through the Unwind Closing Date.

**D. Big Rivers General
Indemnity of LG&E Parties:**

Among other customary indemnification covenants for a breach of the Definitive Documentation, the Definitive Documentation would provide that Big Rivers will indemnify the LG&E Parties, their successors and assigns and their respective officers, employees, consultants or agents for Damages as a result of, or with respect to, Big Rivers' operation and/or use of the Assets prior to the Effective Date or from and after the Unwind Closing Date, except to the extent any of such Damages arise as a result of (i) the gross negligence or willful misconduct of the indemnitee (which act or omission in itself not the direct result of an act or omission of Big Rivers) prior to the Unwind Closing Date, or (ii) any act, event or circumstance to which the LG&E Parties' indemnities contemplated in Sections XII.B. and C. above apply. The foregoing indemnification and hold harmless covenant of Big Rivers would exclude incidental, consequential and other special damages that may have been or may be incurred by the LG&E Parties.

**E. Limitations on
Indemnification:**

Neither the LG&E Parties nor Big Rivers would have any obligation to indemnify or hold harmless Big Rivers, on one hand, or the LG&E Parties, on the other hand, pursuant to the indemnification and hold harmless covenants described in Subsections XII.B., XII.C or XII.D. above, nor would the LG&E Parties (or any of them) have any obligation for any misrepresentation or breach of warranty described in Subsection XII.B above, until such time as the cumulative sum of (a) all damages,

etc. that have been incurred by the indemnitee (treating all LG&E Parties as one indemnitee) and for which indemnification would otherwise be recoverable pursuant to one or more of those covenants and (b) in the case of Big Rivers, all damages for such a misrepresentation or breach of warranty that have been incurred by Big Rivers, exceeds \$250,000. At such time as the amounts that would be payable to a particular party (treating the LG&E Parties as a single party) (but for the operation of this Section XII.E.) under one or more of the provisions of this Section XII exceed \$250,000 (but not before), the relevant indemnitor (treating all LG&E Parties as one indemnitor) would indemnify that indemnitee for all such amounts, including without limitation, that initial \$250,000 amount so incurred by that indemnitee. Big Rivers and the LG&E Parties would not be entitled to seek recovery under any of the above-described covenants, representations or warranties for any damages, etc. for which Big Rivers or any LG&E Party is entitled to recovery under any insurance policy or surety bond.

F. No Precedent:

The Definitive Documentation would include a mutually-satisfactory acknowledgment by the parties that none of their respective representations, warranties or covenants contemplated above in this Section XII would serve as evidence of the parties' agreed interpretation or intent of any provisions of the Phase II Agreements in the event the Definitive Documentation is terminated in accordance with its terms or the Transaction is not otherwise consummated, or would serve to amend, modify or supplement any of those Phase II Agreements (except as expressly provided in the Definitive Documentation).

XIII. CLOSING CONDITIONS

A. Conditions for LG&E Parties: In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, deeds, bills of sale and releases, the conditions to the obligations of the LG&E Parties to close the Transaction shall include:

1. All representations and warranties of Big Rivers

are true and correct in all material respects;

2. All approvals of governmental agencies required for consummation of the Transaction by any LG&E Party, Big Rivers or any Big Rivers Member Cooperative, including the SEC, FERC and KPSC, shall be obtained, all notices to and filings with governmental agencies, including the SEC and FERC, that the LG&E Parties determine are necessary or appropriate to be made prior to the Unwind Closing Date in connection with the consummation of the Transaction shall have been given to (in the case of notices), or filed with and accepted by, the applicable governmental agencies without objection by the Governmental agency or initiation of an adverse proceeding, and any required filings with and waivers from the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 shall have been made or received;
3. All contemplated consents, releases or discharges from the Smelters, the City of Henderson, Kenergy Corp., the Ambac Entities, RUS, Credit Suisse, the Economically Defeased Lease Parties, CFC, Jackson Purchase Energy Corporation, Meade County RECC and Big Rivers shall be obtained;
4. Any other third party consents required for consummation of the Transaction by any LG&E Party or Big Rivers shall be obtained. Furthermore, any necessary consents or waivers under LG&E Capital Corp.'s Indenture relating to its Medium Term Notes shall have been obtained;
5. The *Agreements for Electric Service* between LEM (and/or any other LG&E Party) and Kenergy Corp. for serving the Smelter loads shall be terminated and the related Assurances Agreement between LEM (and/or any other LG&E Party) and each of the Smelters shall also be terminated;
6. All covenants and agreements required to be performed or complied with by Big Rivers in accordance with the Definitive Documentation on or prior to the Unwind Closing Date shall have

been performed and complied with;

7. The debt obligations of Big Rivers secured by a first lien and security interest in the Generating Plants, the Real Property and most of the other tangible assets of Big Rivers shall be rated (or it shall be demonstrated to LG&E Energy's reasonable satisfaction that following the consummation of the Transaction will be rated) at least BBB- by S&P and Baa3 by Moody's;
8. Permits and licenses shall be amended to reflect their assignment to Big Rivers and all necessary consents to such assignment shall be obtained;
9. The pro-ration of the Annual Rent and Monthly Margin Payment due for the month in which the Unwind Closing Date occurs shall be made, and the related adjustments to the amount paid to Big Rivers pursuant to Section V.A. shall have occurred, each as contemplated in Section III above, and the pro-ration of the Transmission Use Credit shall have been made for purposes of determining any credits under the Transmission Services and Interconnection Agreement or the Power Purchase Agreement;
10. The Unwind Environmental Audit shall be completed and the Unwind Environmental Audit Report issued in connection with the same shall not disclose any facts, circumstances, conditions, actions or operations that violate Environmental Law in any material respect or constitute liabilities that, if known to regulatory authorities, could reasonably be expected to give rise to material liabilities for fines, penalties, modifications to Generating Plants, investigation, cleanup or compensation for damages of any kind on the part of Big Rivers or any LG&E Party, other than facts, circumstances, conditions, actions or operations disclosed on Schedule 5.1.19 of the Participation Agreement, stipulated by the Parties in writing as of the Effective Date or identified in the Baseline Environmental Audit Report or, if any fact, circumstance, condition, action or operation that could reasonably be expected to give rise to such a violation of Environmental Law or such material liabilities

(but which was not so disclosed on Schedule 5.1.19, stipulated by the Parties or identified in the Baseline Environmental Audit Report) is disclosed in the Unwind Environmental Audit Report, it shall be corrected, resolved or remediated to the reasonable satisfaction of the LG&E Parties;

11. RUS shall not have made any drawing on the LEM/RUS Note;
12. LG&E Energy and/or the relevant LG&E Party or LG&E Parties shall have received such state and/or federal tax rulings (including without limitation, such rulings with respect to the income, sales, use or property tax treatment of the Transaction) as they shall deem necessary for the consummation of the Transaction, including a ruling as to the favorable tax treatment of the consideration to be paid by the LG&E Parties to Big Rivers on the Unwind Closing Date. The Definitive Documentation would identify the specific rulings required by LG&E Energy and/or the LG&E Parties;
13. The 2005 Amendments to Contracts and the 2005 Amendatory Station Two Agreement, each dated April 1, 2005, among the City of Henderson, Big Rivers and certain of the LG&E Parties, shall have become effective in their entirety and fully binding on those parties as contemplated therein; and
14. There shall be no outstanding unresolved disputes or proceedings between the LG&E Parties or any of them, on the one hand, and Big Rivers, on the other hand, other than disputes or proceedings as shall be released or discharged as of the Unwind Closing Date.
15. The relevant LG&E Party or Parties shall have received (or, arrangements satisfactory to the LG&E Parties shall have been made for the relevant LG&E Party or Parties to receive) all amounts owing to them by Big Rivers, Kenergy and the City of Henderson for energy and/or ancillary services provided by LEM (or by one or more other LG&E Parties) prior to the Unwind

Closing Date under the Power Purchase Agreement, the Transmission Service and Interconnection Agreement, any agreements with Kenergy or any agreements with the City of Henderson, respectively.

B. Conditions for Big Rivers:

In addition to the closing conditions contemplated elsewhere in this Summary of Terms and Conditions, and to normal closing documents for a transaction similar to the Transaction, including customary legal opinions, certificates, deeds, bills of sale and releases, the condition to the obligation of Big Rivers to close the Transaction shall include:

1. All representations and warranties of the LG&E Parties are true and correct in all material respects;
2. All approvals of governmental agencies required for consummation of the Transaction by Big Rivers, any Big Rivers Member Cooperative or any LG&E Party, including the SEC, FERC and KPSC, shall be obtained, all notices to and filings with governmental agencies, including the SEC and FERC, that Big Rivers determines are necessary or appropriate to be made prior to the Unwind Closing Date in connection with the consummation of the Transaction shall have been given to (in the case of notices), or filed with and accepted by, the applicable governmental agencies, without objection by the governmental agency or initiation of an adverse proceeding, and any required filings with and waivers from the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 shall have been made or received;
3. Kenergy Corp. and Big Rivers shall have executed power sales agreements reflecting Big Rivers' obligation to supply the Smelter loads or such portion(s) of those loads as shall be satisfactory to Big Rivers;
4. All contemplated consents, releases or discharges from the Smelters, the City of Henderson, the Ambac Entities, RUS, Credit Suisse, the Economically Defeased Lease Parties, CFC, Kenergy Corp., Jackson Purchase Energy

Corporation, Meade County RECC and all LG&E Parties shall be obtained;

5. The Kenergy Corp. contracts with the Smelters shall be amended appropriately;
6. The Station Two Contracts shall be amended appropriately;
7. All necessary consents to the assignment to Big Rivers of all assigned contracts have been obtained;
8. All third-party consents, including creditor consents or approvals, shall be obtained;
9. The debt obligations of Big Rivers secured by a first lien and security interest in the Generating Plants, the Real Property and most of the other tangible assets of Big Rivers shall be rated (or it shall be demonstrated to Big Rivers' reasonable satisfaction that following the consummation of the Transaction will be rated) at least BBB by S&P and Baa2 by Moody's;
10. The corporate credit rating and long-term issuer rating of LG&E Energy shall be at least the minimum "investment grade" rating, issued by S&P and Moody's as of the Unwind Closing Date;
11. No "casualty" occurrence at any Generating Plant shall have occurred that shall not have been repaired or otherwise corrected by WKEC or Station Two Subsidiary (as applicable) to the reasonable satisfaction of Big Rivers if such "casualty" occurrence occurred within six months of the Unwind Closing Date, or, in all other circumstances, in accordance with the relevant Operative Document or Station Two Contract;
12. Permits and licenses shall be amended to reflect their assignment to Big Rivers and all necessary consents to such assignment shall be obtained;
13. The Unwind Environmental Audit shall be completed and the Unwind Environmental Audit Report issued in connection with the same shall

not disclose any facts, circumstances, conditions, actions or operations that violate Environmental Law in any material respect or constitute liabilities that, if known to regulatory authorities, could reasonably be expected to give rise to material liabilities for fines, penalties, modifications to Generating Plants, investigation, cleanup or compensation for damages of any kind on the part of the LG&E Parties or Big Rivers, other than facts, circumstances, conditions, actions or operations disclosed on Schedule 5.1.19 of the Participation Agreement, stipulated by the Parties in writing as of the Effective Date or identified in the Baseline Environmental Audit Report or, if any fact, circumstance, condition, action or operation that could reasonably be expected to give rise to such a violation of Environmental Law or such material liabilities (but which was not so disclosed on Schedule 5.1.19, stipulated by the Parties or identified in the Baseline Environmental Audit Report) is disclosed in the Unwind Environmental Audit Report, it shall be corrected, resolved or remediated to the reasonable satisfaction of Big Rivers;

14. Kenergy Corp. and the Smelters shall have executed agreements (or amendments to existing agreements) for retail electric service, satisfactory to each party thereto and Big Rivers, reflecting Big Rivers' replacement of LEM (and any other relevant LG&E Party) as the wholesale supplier to Kenergy of power and energy to service the Smelter loads (or such portions of those loads as shall be satisfactory to Big Rivers), and Big Rivers and Kenergy shall have executed a power sales agreement (or amendments to existing agreements), satisfactory to each, to reflect Big Rivers' obligation to sell power to Kenergy Corp. to serve the Smelter loads (or such portions of those loads as shall be satisfactory to Big Rivers);
15. All SO₂ Allowances and NO_x Allowances, required to be conveyed to Big Rivers on the Unwind Closing Date, pursuant to Section III.J, shall be conveyed to Big Rivers;

16. Big Rivers' Member Cooperatives shall each have consented to the Transaction and each Big Rivers Member Cooperative shall have extended its Member Contract until at least such date as is necessary to permit the closing condition set forth in Section XIIB.9 to be satisfied;
17. The facilities on the Plant Green site which were installed to produce gypsum shall have been removed and the site on which Plant Green is situated shall be restored to the condition which existed prior to the construction of such gypsum facilities;
18. The Tangible Assets and the tangible assets comprising Station Two shall be in all material respects in good condition and state of repair, ordinary wear and tear excepted, consistent with Prudent Utility Practice, and all of the Generating Plants in the aggregate shall be physically capable as of the Unwind Closing Date of generating to the reasonable satisfaction of Big Rivers (at established operating parameters and utilizing fuel having characteristics that maximize the capacity output of the Generating Plants) aggregate net output at agreed measuring points of not less than 1751 MW during the period from May 1 of a given year through September 30 of that year, and not less than 1757 MW during the period from October 1 of that year through April 30 of the following year.

On the Unwind Closing Date the net output of the various stations comprising the Generating Plants measured in accordance with the parameters set forth in the preceding sentence shall be as follows:

	May 1 – Sept. 30	Oct. 1 – Apr. 30
3 Unit Coleman Plant	440 MW	443 MW
D.B. Wilson Plant	417 MW	419MW

2 Unit Plant Green	454 MW	454 M
Reid Unit 1 and Reid Combustion Turbine	130MW	130MW
2 Unit Station Two	310MW	311MW

The above net outputs are all net of all appropriate reductions for parasitic load. (In the *Definitive Documentation* the parties would agree that the above net outputs for the Green Plant, Reid Station Turbine and Station Two will be confirmed by the parties using all reasonable and practicable means, and the closing condition in respect of the net outputs of Plant Green, Reid Station and Station Two set forth in the *Definitive Documents* would reflect such confirmed net outputs. If, notwithstanding such reasonable and practicable efforts, the parties shall be unable to confirm the net outputs set forth above for Plant Green, Reid Station and Station Two, the net outputs of Plant Green, Reid Station and Station Two represented by the LG&E Parties on the Unwind Closing Date shall be aggregated).

No forced outage of any Generating Plant shall have occurred for a period greater than five (5) consecutive days during the 30-day period immediately preceding the proposed Unwind Closing Date, and no forced outage of any Generating Plant shall be pending on the proposed Unwind Closing Date. Any Generating Plant which is not operating on the Unwind Closing Date by reason of a scheduled outage of the same shall be readily capable of operating to Big Rivers' reasonable satisfaction at its then-rated capacity (determined in accordance with the parameters set forth in the first sentence of this Subsection XIII.B.18) following the work, repairs or upgrades contemplated in connection with that scheduled outage, and no permanent derating of any Generating Plant (below the operating capabilities described above) shall have occurred. Any Generating Plant which is not operating on the Unwind Closing Date but is in "stand-by mode" shall be readily capable of operating at its then

net rated capacity (such capability to be demonstrated, if required by Big Rivers, by the start-up for a sustained period of not less than eight hours at its net rated capacity (determined in accordance with the parameters set forth in the first sentence of this Subsection XIII.B.18), at the LG&E Parties' cost, prior to the Unwind Closing Date). Big Rivers acknowledges that, except as specifically provided in the representations or covenants contemplated in the Definitive Documentation, it will accept the Generating Plants, the Real Property (and the real property on which Station Two is situated) and the Tangible Assets in "AS IS" condition with no representation or warranty by the LG&E Parties as to fitness, merchantability or condition of the assets constituting the Generating Plants, the Real Property (such other real property) or the Tangible Assets.

19. The construction of the flue gas desulfurization equipment and facilities at the Coleman Station (the "Coleman Scrubber") shall be completed in accordance with the specifications set forth in the Coleman Scrubber EPC Contract, and the Coleman Scrubber shall, in all material respects, be fully operational and performing in accordance with all performance criteria in the Coleman Scrubber Performance Guarantees set forth in Section 4 of Exhibit A to the Coleman Scrubber EPC Contract. If Big Rivers is to assume such contract in accordance with III.E, the Purchase Agreement between Synthetic Materials and WKEC, made and entered into the 15th day of September, 2004, or a gypsum offtake contract with an entity reasonably acceptable to Big Rivers having similar provisions, shall be in full force and effect.
20. All damage to Unit 1 of Station Two resulting from the H1 boiler event which occurred on August 30, 2004 shall be repaired to the condition required by the Station Two Agreement (including any necessary acknowledgement of satisfaction by the City of Henderson);
21. WKEC shall have paid Big Rivers all installments of annual rent and the Monthly Margin Payment under Section 2.3 of the Lease

for any month prior to the month in which the Unwind Closing Date occurs, and a pro rata portion of the monthly installment of annual rent and the Monthly Margin Payment for the month in which the Unwind Closing Date occurs;

22. Big Rivers shall have received (or arrangements satisfactory to the LG&E Parties shall have been made for Big Rivers to receive) all amounts owed to it by any LG&E Party for transmission and/or ancillary services provided by it prior to the Unwind Closing Date under the Transmission Services Agreement, or any agreements with any LG&E Party; and
23. Each of the Generating Plants shall be operating in compliance with all ECAR and NERC generation reliability compliance standards that are applicable to that Generating Plant, including those obligations incurred by WKEC in respect thereof pursuant to Section 8.1.2 of the Transmission Service and Interconnection Agreement.
24. The 2005 Amendments to Contracts and the 2005 Amendatory Station Two Agreement, among the City of Henderson, Big Rivers and certain of the LG&E Parties (referred in Subsection XIII.A.13 above) shall have become effective in their entirety and fully binding on those parties as contemplated therein.
25. There shall be no outstanding unresolved disputes or proceedings between the LG&E Parties or any of them, on the one hand, and Big Rivers, on the other hand, other than disputes or proceedings as shall be released or discharged as of the Unwind Closing Date.
26. Big Rivers' Wilson to Coleman 345 kV circuit shall have been interconnected to LG&E Energy's Elmer Smith to Hardin County 345 kV circuit or an alternative reasonably acceptable solely to Big Rivers. In addition, Big Rivers shall have obtained all governmental consents and approvals necessary for transmission of 1550 MW of power, taking into account all of Big Rivers' other transmission assets, to be delivered to Big Rivers'

border.

27. KRS 279.120 shall have been amended or an alternative solution acceptable to Big Rivers shall have been put in place such that Big Rivers will be permitted to sell to non-members all excess power and energy that could result if the Smelters terminate their Electric Services Agreements.

The determination of the satisfaction of the closing conditions set forth in Subsections XII.B.7, 18, 19, 20 and 23 shall be solely within Big Rivers' reasonable judgment.

XIV. REPRESENTATIONS OF PARTIES

A. Representations of LG&E Parties.

In the Definitive Documentation the LG&E Parties shall make representations and warranties customary for a transaction similar to the Transaction (other than warranties regarding the condition and state of repair of the Generating Plants, the Real Property, any other Tangible Assets or the tangible assets comprising Station Two) as of the date of execution of the Definitive Documentation, except to the extent a representation speaks to facts or circumstance on the Unwind Closing Date in which case such representation shall be made as of the Unwind Closing Date. As a further condition to the consummation of a Transaction, the representations made as of the date of execution of the Definitive Documentation shall be brought down on the Unwind Closing Date. The representations of the LG&E Parties shall include without limitation, customary representations and warranties addressing the following (subject to such exceptions to the representations and warranties as shall be set forth in the disclosure schedules to the Definitive Documentation):

1. Organization and existence.
2. Execution, delivery, enforceability of Definitive Documentation.
3. No violation of agreements or contracts.
4. No consents required.
5. The representations described in Subsection

XII.B.4.

6. Absence of claims or litigation (other than pending claims such as the Neal litigation).
7. Zoning and condemnation.
8. No knowledge of intent to cancel on part of any party to assigned contracts.
9. No infringement of patents, software licenses, etc.
10. Absence of Liens.
11. The correctness and completeness of certain due diligence materials (to be agreed to by the parties).
12. To the best of the LG&E Parties' knowledge after reasonable inquiry, the LG&E Parties have delivered to Big Rivers, or otherwise provided appropriate meaningful access to Big Rivers for all reports and studies performed by third parties following the Effective Date for the account or at the request of an LG&E Party, and addressing material operational or maintenance matters involving the Generating Plants or the sites on which they are situated or the actual condition of the Generating Plants or the sites on which they are situated (but excluding any legal conclusions or legal advice relating to or included in any materials or information which is subject to attorney-client privilege), which reports and studies will be identified in the Definitive Documentation, provided that, (a) documents which are subject to any privilege may be made the subject of a common interest or joint defense agreement satisfactory to the parties and, if so, will be disclosed to another party bound to that agreement in accordance with the terms of such agreement and (b) Big Rivers would acknowledge in the Definitive Documentation that it would have no claim for breach by the LG&E Parties of this representation if an LG&E Party can establish that at the time the above-described representation and warranty is made to Big Rivers the information in any such third party

report or study which may not have been delivered to Big Rivers by the LG&E Parties in breach of such representation or warranty was in the possession of one or more senior officers or members of the Contract Administration Department of Big Rivers. The parties acknowledge that no joint defense agreement currently exists between Big Rivers and any LG&E Party other than the Joint Defense Privilege and Confidentiality Agreement between WKEC and Big Rivers effective September 11, 2000.

13. All amounts due and payable as of the Unwind Closing Date by an LG&E Party to any vendor or under any contracts to be assigned to Big Rivers as contemplated in Section III.E, III.H, III.I or VII.B, or to any lessor under any Equipment Lease to be assumed pursuant to Section III.G, in respect of commodities or services delivered prior to the Unwind Closing Date, have been paid. No amounts are owing under any of such contracts or leases in respect of such commodities or services as of the Unwind Closing Date.
14. To the knowledge of the LG&E Parties after reasonable inquiry, no material dispute or proceeding exists between any LG&E Party and the City of Henderson other than such disputes or proceedings as shall be released and discharged as of the Unwind Closing Date, or as shall be identified in the disclosure schedules to the Definitive Documentation.

Other than as provided in Subsection XII.B.4 and other than for certain representations which the parties shall agree in the Definitive Documentation shall survive for a longer period, the representations and warranties of the parties set forth in the Definitive Documentation would expire on the first (1st) anniversary of the Unwind Closing Date.

B. Representations of Big Rivers:

In the Definitive Documentation Big Rivers shall make representations and warranties customary for a transaction similar to the Transaction as of the date of execution of the Definitive Documentation, except to the extent a representation speaks to facts or circumstance on the Unwind Closing Date, in which case such

representation shall be made as of the Unwind Closing Date. As a further condition to the consummation of the Transaction, the representations made as of the date of execution of the Definitive Documentation shall be brought down on the Unwind Closing Date. The representations of Big Rivers shall include, without limitation, customary representations and warranties addressing:

1. Organization and existence.
2. Execution, delivery, enforceability of Definitive Documentation.
3. No violation of agreements or contracts.
4. No consents required.
5. Compliance with law.
6. Possession of permits, licenses, etc.
7. Absence of Litigation.
8. Zoning and condemnation.
9. Absence of Liens.

XV. OPERATION OF PLANTS PRIOR TO UNWIND CLOSING DATE

- A. Big Rivers Representative at Generating Plants:** In the period from the execution of the Definitive Documentation until the Unwind Closing Date or the earlier termination of the Definitive Documentation, the LG&E Parties would provide to a representative of Big Rivers situated on the site of each of the Generating Plants an office, telephone and appropriate services, and such representative would be afforded reasonable access at all times during that period to such Generating Plants, and reasonable access during normal business hours during that period to all books, records, data, contracts and other documents (other than attorney-client privileged information, other than information the subject of a confidentiality agreement with one or more third parties, and other than information (i) containing data or information considered by an LG&E Party in good faith to constitute or contain competitively sensitive information the disclosure of which to Big Rivers could compromise a competitive advantage of that LG&E

Party in the market place or (ii) produced by an LG&E Party in contemplation of the Transaction or the analysis, development or negotiation thereof, or produced by an LG&E Party for the purpose of facilitating the LG&E Parties' considerations of the Transaction or other alternatives for restructuring or terminating (or ending an LG&E Party's involvement in) any existing agreement or relationship between any LG&E Party, on the one hand, and Big Rivers, any Smelter, Kenergy Corp., the City of Henderson or any Economically Defeased Lease Party, on the other hand), then in the possession or control of the LG&E Parties and relating to the operation of such Generating Plants (including the right to make copies of such books, record, data, contracts or other documents at the expense of Big Rivers, which shall remain subject to any confidentiality agreements among the parties then in effect). Big Rivers' representative shall have the right to confer with the employees of WKEC and Station Two Subsidiary responsible for operation and maintenance of such Generating Plants during that period, so long as the rights of Big Rivers do not interfere with the operation of such Generating Plants. Such representative shall have the right during that period to be present at the performance of all maintenance and the making of all capital repairs and replacements, whether in connection with a Generating Plant outage or otherwise. Big Rivers will be solely responsible for the costs and expenses of such representative (with the exception of office space, electric usage, and other incidentals which do not constitute an out-of-pocket costs) and of such inspection of books, records, data, contracts and other documents. Notwithstanding anything contained herein to the contrary, the parties agree that nothing contained in this Subsection XV.A or in Subsections B through E, below are intended to, nor would they, constitute a transfer of control over utilities or utility assets as contemplated in KRS 278.020(4) and (5), and the rights of Big Rivers contemplated herein would be suspended to the extent they at any time are deemed by the Kentucky Public Service Commission to constitute such a transfer of control or to otherwise require the prior approval of that Commission.

B. Operating Plans:

Immediately following the execution of the Letter of Intent, WKEC and Station Two Subsidiary would provide to Big Rivers copies of their station specific "2006 operating plan" and would provide to Big Rivers

the station specific "2007 operating plan" (collectively, the "Operating Plans") after it has been prepared and internally approved by the LG&E Parties, and those Operating Plans would be included as exhibits to the Definitive Documentation. In the period from and after the execution of Definitive Documentation until the Unwind Closing Date or the earlier termination of the Definitive Documentation, in addition to participation in the budgetary process as provided by Section 7 of the Lease and Section 9.10 of the Station Two Agreement, Big Rivers would have the right to approve any material deviations from or material modifications to those Operating Plans desired to be implemented by WKEC or Station Two Subsidiary, as applicable (which approval would not be unreasonably withheld, conditioned or delayed), other than deviations or modifications contemplated as to be implemented pursuant to or in connection with activities that are provided for in an annual capital or O&M budget (or deviation from such a budget) that has been approved by Big Rivers. Except as specifically provided by the preceding sentence, nothing in Big Rivers' right to approve such deviations or modifications shall be construed to amend or modify the provisions of the Phase II Agreements relating to the preparation of the Annual Capital and Operating Budgets for the Assets or the Operating Budget for Station Two, including, without limitation, the provisions relating to Capital Budget Limits and Big Rivers Contributions.

C. Operation of Generating Plants; Employee Matters:

In the period from and after the execution of Definitive Documentation until the Unwind Closing Date or the earlier termination of the Definitive Documentation, the LG&E Parties would operate the Generating Plants in the ordinary course in accordance with the Operative Documents, the Operating Plans and the provisions of Section XV of this Summary of Terms and Conditions. During that period neither WKEC nor Station Two Subsidiary would implement any general wage increase outside the ordinary course of business with respect to employees involved in the operation of the Generating Plants. WKEC and Station Two Subsidiary may continue normal salary administrative practices in the ordinary course of business, however. The LG&E Parties would attempt to fill vacant positions in the normal course of the operation of the Generating Plants. Without the prior written approval of Big Rivers, neither WKEC nor Station Two Subsidiary would during that period implement or agree to any implementation of, or amendment or supplement to, any pension, commission, retirement medical reimbursement, life insurance, or any other similar employee compensation or benefit plan or arrangement as and to the extent the same may be applicable to any employee except for (i) non-material modifications or amendments, (ii) modification or amendments which are required by Law, (iii) modifications or amendments required by employment agreements or collective bargaining agreements in existence on the date of execution of the Letter of Intent and (iv) modifications or amendments approved by Big Rivers. The Definitive Documentation would provide that, from and after the date 90 days prior to the estimated date of the Unwind Closing Date, the LG&E Parties will give Big Rivers notice of any forced outage of any Generating Plant within 24 hours of the occurrence of such forced outage.

D. Contracts

In the period from and after the execution of Definitive Documentation until the Unwind Closing Date or the earlier termination of the Definitive Documentation, each of the LG&E Parties would perform its respective obligations under, and otherwise use its reasonable best efforts to keep in full force and effect, all fuel supply contracts, contracts for reagent, fuel, oil or natural gas and any other vendor contracts for supplies or services at any of the Generating Plants (limited, in the case of such other vendor contracts, to contracts involving aggregate

payments for goods or services over their term by WKEC or Station Two Subsidiary in excess of \$500,000), but in each case only to the extent the relevant contract (a) is identified in the Definitive Documentation as to be assigned to and assumed by Big Rivers on the Unwind Closing Date or (b) is entered into by WKEC or Station Two Subsidiary following the execution of the Definitive Documentation. Nothing contained in the Definitive Documentation, however, would require WKEC or Station Two Subsidiary to extend the original term or any renewal term of any contract in order to comply with the foregoing. Without the prior written approval of Big Rivers (which approval would not be unreasonably withheld, conditioned or delayed), during that period no LG&E Party would enter into any power sale, maintenance, fuel supply, materials or transportation contract with respect to any of the Generating Plants, or make any commitment to do so, involving the payment of an amount in excess of \$500,000 annually or having a termination date after December 31, 2006 (or such later date as the parties shall agree to in writing as being the estimated Unwind Closing Date); provided, that the foregoing would not apply to any sales by LEM in the ordinary course of business of power generated by the Generating Plants, or to any purchases by LEM or any other LG&E Party of power from other sources, at any time through the Unwind Closing Date.

E. Access Condition:

In addition to the other conditions precedent to the consummation of a Transaction contemplated in this Summary of Terms and Conditions, the Definitive Documentation would provide Big Rivers a mechanism for ensuring that the LG&E Parties have fulfilled their obligations with respect to the relevant Operating Plans for the Generating Plants in all material respect for all periods from and after the execution of the Definitive Documentation through the anticipated Unwind Closing Date, and for ensuring that Big Rivers' requests for the production of due diligence information regarding the Generating Plants, the Real Property, the other Tangible Assets, and the contracts, agreements, leases, etc. of the LG&E Parties relating to the same have been fulfilled, in each case before Big Rivers would be obligated to consummate the Transaction, as follows:

1. At least 90 days prior to the date set by the parties

as the anticipated Unwind Closing Date, but not more than 120 days prior to that anticipated Unwind Closing Date, Big Rivers would be permitted to (but not required to) submit to the LG&E Parties a written report: (a) identifying in reasonable detail all tasks or action items identified in the Operating Plan of WKEC or Station Two Subsidiary, as the case may be, for that current year (or for any preceding year (or portion thereof) following the execution of the Definitive Documentation that is specifically identified by Big Rivers) that Big Rivers believes in good faith are required to be undertaken and completed by the relevant LG&E Party on or prior to that anticipated Unwind Closing Date, but which have not been completed as of the date of submission of that written report; and/or (b) identifying with particularity additional items of information that Big Rivers desires in order to complete its due diligence regarding the Generating Plants, the Real Property, the other Tangible Assets or the contracts, agreements, leases, etc. of the LG&E Parties relating to the same, or in order for Big Rivers to confirm the satisfaction of one or more of the conditions precedent to Big Rivers' obligation to consummate the Transaction, but which were not previously delivered by an LG&E Party to Big Rivers (such written report being hereinafter referred to as the "Report").

2. Upon its receipt of a Report delivered in a timely manner as contemplated above, the LG&E Parties will notify Big Rivers in writing within 30 days thereafter (a) as to whether any LG&E Party disagrees with any task or action item identified in the Report as contemplated in Subclause 1(a) above (whether on the basis (i) that such task or action item is not identified in the relevant Operating Plan as to be undertaken or completed on or prior to that anticipated Unwind Closing Date, (ii) that such task or action item has already been completed in accordance with that Operating Plan, or (iii) that Big Rivers previously consented in writing to the elimination of such task or action item from that Operating Plan or to the deferral of the completion of such task or

action item until after that anticipated Unwind Closing Date), and (b) as to whether the LG&E Parties are able to disclose to Big Rivers (within 45 days after their receipt of the Report, if not before) the additional items of information requested by Big Rivers in the Report (other than such information which is not in the possession of the LG&E Parties as of their receipt of the Report and not anticipated as to be prepared or generated by or for any LG&E Party in the ordinary course of business prior to that 45th day, and other than sensitive corporate financial information of the LG&E Parties or information subject to the attorney-client privilege, which information would in any event not have to be prepared, secured or disclosed by any LG&E Party in response to one or more requests made by Big Rivers in the Report).

3. In the event the LG&E Parties do not so object to any tasks or action items identified in the Report and such tasks or action items are undertaken and completed by the relevant LG&E Parties prior to the anticipated Unwind Closing Date in accordance with the relevant Operating Plan, and in the event the relevant LG&E Party discloses to Big Rivers (within the 45-day period contemplated above) all additional items of information (other than those expressly excluded as contemplated above) specifically requested by Big Rivers in the Report, the provisions contemplated in this Subsection XV.E. would not thereafter serve as a condition to Big Rivers obligation to consummate the Transaction in accordance with the other provisions of the Definitive Documentation.
4. In the event any LG&E Party disagrees with a particular task or action item identified in the Report as contemplated above, representatives of that LG&E Party and Big Rivers will meet promptly thereafter (but in no event more than 30 days following the delivery by that LG&E Party to Big Rivers of its notice of disagreement as contemplated above) in order to attempt in good faith to resolve that disagreement. If despite those good faith efforts the relevant parties are

not able to resolve that dispute within 15 days, either party would be entitled to initiate proceedings under a dispute resolution provision to be included in the Definitive Documentation for the purpose of attempting to resolve that disagreement, and either party would be entitled to elect to delay the consummation of the Transaction until that disagreement is finally settled or resolved, or until the Definitive Documentation is otherwise terminated in accordance with its terms.

5. In the event the LG&E Parties do not disclose to Big Rivers the additional items of information specifically requested by it in the Report (other than information expressly excluded as contemplated above) within the 45-day period contemplated above, Big Rivers would thereafter be entitled to delay the consummation of the Transaction beyond the anticipated Unwind Closing Date until the date that is 45 days after the date on which that information is disclosed to Big Rivers, but subject to the satisfaction of the other conditions provided for elsewhere in the Definitive Documentation, and subject to the earlier termination of the Definitive Documentation in accordance with its terms.
6. In the event Big Rivers fails to deliver the Report on a timely basis as contemplated above, or fails to include in a submitted Report one or more tasks or action items, or one or more items of requested information, each as contemplated above, Big Rivers would not thereafter be permitted to condition or delay the consummation of the Transaction on the basis that the LG&E Parties have not undertaken and completed any tasks or action items identified in an Operating Plan (or, as applicable, have not undertaken and completed any such tasks or action items not specifically identified in the Report), or as applicable would not be permitted to delay the consummation of the Transaction until 45 days after its receipt of any particular items of information from the LG&E Parties (or, as applicable, its receipt of any items of information not identified with particularity in a submitted

Report).

XVI. GENERAL

- A.** Preparation of Definitive Documentation: The initial drafts of documents proposed as the Definitive Documentation for the Transaction contemplated by this Summary of Terms and Conditions will be prepared by Orrick, Herrington & Sutcliffe LLP.
- B.** Governing Law of Letter of Intent: Commonwealth of Kentucky.
- C.** LG&E Energy Guarantee: LG&E Energy would guarantee the obligations of each of the other LG&E Parties under the Definitive Documentation.
- D.** Termination of Definitive Documentation: The Definitive Documentation will provide that, if the Unwind Closing Date shall not occur on or before December 31, 2006, the Definitive Documentation may be terminated at the option of either Big Rivers or the LG&E Parties (unless the Unwind Closing Date shall fail to occur by that date in consequence of a breach by the party seeking to terminate the Definitive Documentation of its covenants set forth in the Definitive Documentation), and thereafter would be of no further force and effect, and each of the LG&E Parties and Big Rivers would be released and discharged of all its obligations thereunder as of the date of such termination.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 83

Witness: Paul Thompson

- Q-83. Please reference the testimony of Paul W. Thompson, page 13, regarding "WKEC has agreed to pay to the smelter customers, collectively, at the closing a sum of money in immediately available funds." State the amount of that sum of money.
- A-83. This answer is being submitted under seal pursuant to a petition for confidential treatment and to the Attorney General pursuant to the existing Confidentiality Agreement.



Alcan Primary Products Corporation
P.O. Box 44
Henderson, Kentucky 42419
Attention: Plant Manager, Sebree Smelter

Century Aluminum of Kentucky General Partnership
Hawesville Plant
P.O. Box 500
1627 State Route 271 North
Hawesville, Kentucky 42348
Attention: Plant Manager

November 5, 2007

Subject: Closing Date Payments

Gentlemen:

Western Kentucky Energy Corp.
145 N. Main Street
P.O. Box 1518
Henderson, KY 42419-1518
www.eon-us.com

Paul W. Thompson
Sr. Vice President-Energy Services
T 502-627-3861
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[CONFIDENTIAL INFORMATION REDACTED]

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 84

Witness: Paul Thompson

Q-84. Please state when E.ON anticipates it will receive the requested tax rulings from IRS and Kentucky Revenue Cabinet.

A-84. Both rulings are expected no later than the end of the second quarter of this year.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 85

Witness: Paul Thompson / David Sinclair

- Q-85. Provide the complete joint application and supporting documentation for the parties waiver from the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvements Act ("HSR Filing"). If the filing has not yet been made, please state when it is anticipated the HSR filing will be made.
- a. If the HSR filing has not yet been made, provide each document that is being considered for inclusion when the filing is made.
- A-85. a. The filing, with attached documents, is not yet complete, and will be provided under seal when available. The filing is anticipated to be made in April or early May of this year.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 86

Witness: Paul Thompson / David Sinclair

Q-86. Identify and provide the filings before the Federal Energy Regulatory Commission necessitated by this proposed transaction.

A-86. The Federal Energy Regulatory Commission ("FERC") filings are being prepared. They include an application requesting an order authorizing, or disclaiming jurisdiction over, the Unwind Transaction, pursuant to Section 203 of the Federal Power Act, a withdrawal of WKE's rate schedules on file with the FERC, and the filing of the Generation Dispatch Support Services Agreement between LG&E Energy Marketing, Inc. and Big Rivers. A copy of these filings will be provided to the Attorney General's office when filed with FERC in February 2008.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 87

Witness: Counsel / Paul Thompson

- Q-87. Please reference the testimony of Paul W. Thompson, page 18, regarding “By terminating its commitments now, E.ON U.S. will bring financial certainty to what would otherwise be an uneconomic set of contracts that could expose the Company to uncertain and unfavorable financial results through 2023.”
- a. Provide the estimated present value of these unfavorable financial results through 2023 (or any shorter period evaluated by the Company).
 - b. State specifically each and every fact or circumstance that makes the “set of contracts” “uneconomic”.
 - c. For each and every fact or circumstance that makes the set of contracts uneconomic, quantify its contribution to “unfavorable financial results.”
- A-87. This request seeks information (i.e., estimated present value of these unfavorable financial results through 2023) which can be reasonably calculated by the Attorney General’s consultant from the information provided in the response to these data requests or is otherwise in the record of this proceeding. The estimated present value of the unfavorable financial results through 2023 is information that is confidential and proprietary; that is protected from disclosure by the privilege of critical self-analysis; and that is the property of unregulated entities (rather than utilities) whose financial affairs and internal analyses are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal analyses and business strategy of E.ON U.S. LLC’s unregulated businesses have no relevance to this inquiry. Without waiving this objection, E.ON states that under existing Lease and Power Contracts, the operating costs have essentially outpaced the fixed contract prices that WKE/LEM can charge Big Rivers and the Smelters, thereby making the “set of contracts” “uneconomic”. The changes in operating costs include fuel, capital, operation and maintenance and environmental compliance.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 88

Witness: Counsel

Q-88. Provide any and all internal E.ON documents which address the subject of the existing agreements which are the subject of the "Unwind Transaction" and "Termination Transaction", including any financial analyses and strategic analyses.

A-88. E.ON objects to this request on the basis that it is overbroad and unduly burdensome, requiring research with regard to documents prepared over more than a five year period. In addition, the request concerns documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

Without waiver of this objection, please see the response to Attorney General Request for Information Nos. 26(d) and 87 for a detailed description of why the current contracts are not economic.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 89

Witness: Counsel

Q-89. Provide any and all documents created for E.ON, or at its direction, which address the subject of the existing agreements which are the subject of the "Unwind Transaction" and "Termination Transaction", including any financial analyses and strategic analyses.

A-89. E.ON objects to this request on the basis that it is overbroad and unduly burdensome, requiring research with regard to documents prepared over more than a five year period. In addition, the request concerns documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

Without waiver of this objection, please see the response to Attorney General Request for Information Nos. 26(d) and 87 for a detailed description of why the current contracts are not economic.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 90

Witness: Paul Thompson / David Sinclair

Q-90. Provide E.ON's strategic plan for generation assets and operations in Kentucky, or at any necessary higher level (geographic or business) if such a plan does not exist for Kentucky.

A-90. Please see the public records of the Kentucky Public Service Commission in *The 2005 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, PSC Case No. 2005-00162 regarding the generation assets of the utilities. The Integrated Resource Plan provides historical and projected demand, resource and financial data, and other operating performance and system information and is filed with the Public Service Commission triennially.

The plan for the WKE generation assets is set forth in this proceeding.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 91

Witness: Counsel

Q-91. Provide any and all documents and materials considered by E.ON senior management and Board of Directors (or its equivalent) in acting to:

- a. Initiate discussions with Big Rivers on the subjects of the Unwind and Lease Agreement Termination transactions; and,
- b. Approve and authorize the proposed transactions before the Commission in this matter.

A-91. E.ON objects to this request on the basis that it requests documents and information that are confidential and proprietary; that are privileged; and that are the property of unregulated entities (rather than utilities) whose financial affairs and internal memoranda are not subject to discovery absent an indication that they are relevant to the public interest inquiry in the present case. The public interest inquiry here concerns whether Big Rivers can provide service on a going forward basis on the terms and conditions of the proposed transaction. The internal documents and business strategy of E.ON's unregulated businesses have no relevance to this inquiry.

Without waiver of this objection, please see the response to Attorney General Request for Information Nos. 26(d) and 87 for a detailed description of why the current contracts are not economic.

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 94

Witness: Paul Thompson / David Sinclair

Q-94. State each material fact which prevents E.ON from electing to continue its present mode of operation, including provision of power to Big Rivers under the existing Lease Agreement and Purchase Power Agreement.

A-94. The material facts which prevent E.ON U.S. LLC from electing to continue its present mode of operation, including provision of power to Big Rivers under the existing Lease Agreement and Purchase Power Agreement are described at page 18 of Mr. Thompson's testimony (i.e., the performance of an uneconomic set of contracts and their associated exposure of E.ON U.S. LLC to uncertain and unfavorable financial results through 2023).

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 95

Witness: Paul Thompson / David Sinclair

- Q-95. State each material fact and purpose which incents or otherwise motivates E.ON to seek the Unwind Transaction and Lease Agreement termination which is the subject of this proceeding. Discuss each such listed material fact and purpose.
- A-95. The material facts and purpose which incents or otherwise motivates E.ON to seek the Unwind Transaction and Lease Agreement termination which is the subject of this proceeding are described at page 18 of Mr. Thompson's testimony (i.e., the performance of an uneconomic set of contracts and their associated exposure of E.ON U.S. LLC to uncertain and unfavorable financial results through 2023).

E.ON U.S. LLC

**Response to the AG's Request for Information
Dated February 1, 2008**

Case No. 2007-00455

Question No. 96

Witness: David Sinclair

Q-96. Provide any available and current market and industry research on aluminum commodity markets and aluminum smelting that have been reviewed and considered by E.ON.

A-96. There are no documents responsive to this request.