

DORSEY, KING, GRAY, NORMENT & HOPGOOD

ATTORNEYS-AT-LAW

318 SECOND STREET

HENDERSON, KENTUCKY 42420

JOHN DORSEY (1920-1986)
FRANK N. KING, JR.
STEPHEN D. GRAY
WILLIAM B. NORMENT, JR.
J. CHRISTOPHER HOPGOOD
S. MADISON GRAY

TELEPHONE
(270) 826-3965
TELEFAX
(270) 826-6672
www.dkgnlaw.com

January 25, 2011

RECEIVED

JAN 26 2011

**PUBLIC SERVICE
COMMISSION**

FEDERAL EXPRESS

Mr. Jeff DeRouen
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Our client: Kenergy Corp. ("Kenergy")

Temporary and permanent electric service from
Kentucky Utilities Company ("KU") to
Dodge Hill Mining Company, LLC ("Dodge Hill")

Dear Mr. DeRouen:

The purpose of this letter is (i) to notify the Commission of an agreed upon proposed service arrangement in which the consumer (Dodge Hill) will receive power from KU through the consumer's facilities to a delivery point in Kenergy's certified territory and (ii) to determine from the Commission (or Staff Counsel) whether Commission approval of a written agreement between KU and Kenergy is required.

Dodge Hill and Kenergy have entered into a written agreement, with addendum, for this service and enclosed are signed copies of those documents. As the Commission can see from these documents, the delivery point will be at an airshaft in Kenergy's territory. Dodge Hill will take the temporary and permanent service from KU at meters located in KU's territory. Dodge Hill will construct the facilities for the service and will remove them when service is terminated.

Further enclosed is a draft of a proposed agreement between KU and Kenergy that has been tendered to KU for execution, but KU declines to sign. The Exhibit A referenced in the draft will be the agreement with addendum between Dodge and Kenergy.

Kenergy is agreeing to this service arrangement because its facilities, and those of its wholesale provider Big Rivers Electric Corporation, are not well located for this service, with the closest of these facilities being approximately 4 miles from Dodge

Hill's proposed airshaft, whereas the existing KU meters are only approximately .5 miles from the airshaft.

Kenergy's understanding of the Kentucky certified territory law, particularly KRS 278.018(6), is that Commission approval of an agreement between the two (2) involved retail electric suppliers is required for a transaction of this nature. Kenergy has consented that Dodge Hill may commence construction of its facilities with the understanding that KU's power will not commence until the Commission (or Staff Counsel) replies either that a KU-Kenergy agreement is not required or that such an agreement is required along with Commission approval of said agreement, and in this latter event then after such approval.

(Even though Commission action is requested it is understood that an opinion letter from Staff Counsel may be deemed appropriate.)

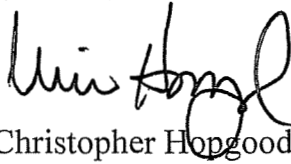
This matter has been discussed with Staff Counsel Richard Raff and a copy of this letter with the enclosures is being sent directly to him for information.

The Commission's prompt reply is requested so that service to Dodge Hill will not be delayed. Your attention to this is appreciated.

Very truly yours,

DORSEY, KING, GRAY, NORMENT & HOPGOOD

By



J. Christopher Hopgood
Counsel for Kenergy Corp.

JCH/cds

Encls.

COPY/w/encls.:

Hon. Richard Raff, Commission Staff Counsel

Mr. David Hamilton, Kenergy Corp.

Mr. Mark Williams, Dodge Hill Mining Company, LLC

TEMPORARY DISTRIBUTION AND PERMANENT TRANSMISSION FEEDER AGREEMENT

This TEMPORARY DISTRIBUTION AND PERMANENT TRANSMISSION FEEDER AGREEMENT ("Agreement") is made and entered into on this the 30th day of December, 2010, by and between:

KENERGY CORP.
A Kentucky rural electric cooperative
6402 Old Corydon Road
P.O. Box 18
Henderson, Kentucky 42419-0018

(hereinafter called "KENERGY")

-and-

DODGE HILL MINING COMPANY, LLC
A Delaware limited liability company
435 Davis Mine Road
P.O. Box 165
Sturgis, Kentucky 42459

(hereinafter called "DODGE HILL").

RECEIVED

JAN 26 2011

PUBLIC SERVICE
COMMISSION

WITNESSETH:

WHEREAS, DODGE HILL is the owner of its Dodge Hill No. 1 Mine located at 435 Davis Mine Road, west of Sturgis in Union County, Kentucky, with the mine entries being located within the electric service area of Kentucky Utilities (hereinafter "KU") and for in excess of ten (10) years has been obtaining its electrical power at this site from KU from an existing permanent KU metering point north of Sturgis, Kentucky, located within the electric service area of KU over DODGE HILL's privately-owned power line and right-of-way;

WHEREAS, the Dodge Hill No. 1 Mine has advanced eastwardly to points northeast of Sturgis in Union County, Kentucky, to such an extent that it is necessary for DODGE HILL to construct an air shaft from the surface to its underground workings at a point with the address of 815 Pond Ford Road, Sturgis, Kentucky 42459, which point lies within the electric service area of KENERGY;

WHEREAS, DODGE HILL has requested KENERGY's consent to allow DODGE HILL to construct a temporary three-phase distribution feeder (12,470 volts) from a temporary KU metering point northeast of Sturgis, Kentucky within the electric service area of KU to the DODGE HILL construction site at 815 Pond Ford Road, Sturgis, Kentucky 42459 (hereinafter called "temporary three-phase distribution feeder (12,470 volts)");

WHEREAS, DODGE HILL has requested KENERGY's consent to allow DODGE HILL to construct a permanent three-phase transmission feeder (69 KV) from the existing permanent KU metering point located north of Sturgis, Kentucky, within the electric service area of KU to the DODGE HILL air shaft located at 815 Pond Ford Road, Sturgis, Kentucky 42459, over DODGE HILL's privately-owned power line and right of way (hereinafter called "permanent three-phase transmission feeder (69 KV)"); and,

WHEREAS, the parties understand that this Agreement must be filed and approved by the Kentucky Public Service Commission before it shall become effective,

NOW, THEREFORE, for good and valuable consideration and the covenants and promises of DODGE HILL, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. The above-mentioned recitals are incorporated herein by reference and made a part of this Agreement.

2. KENERGY hereby grants to DODGE HILL its consent for DODGE HILL to construct a temporary three-phase distribution feeder (12,470 volts) from a temporary KU metering point northeast of Sturgis, Kentucky, located within KU's electric service area to DODGE HILL's air shaft construction site at 815 Pond Ford Road, Sturgis, Kentucky 42459, subject to the following terms and conditions:

(a) The purpose of DODGE HILL constructing the temporary three-phase distribution feeder (12,470 volts) is to provide the necessary feeder electrical power for the air

shaft contractor to operate its electrical tools and equipment required to bore a shaft from the surface to Dodge Hill No. 1 Mine underground workings;

(b) The temporary three-phase distribution feeder (12,470 volts) shall be approximately 2,880 feet in length;

(c) The temporary three-phase distribution feeder (12,470 volts) shall be removed by DODGE HILL from the temporary KU metering point to the construction site, less any part which can be used as a portion of a permanent phase-three transmission feeder (69 KV), as soon as the construction of the air shaft is completed;

(d) Dodge Hill shall give written notice to Kenergy when the temporary portion of the temporary three-phase distribution feeder (12,470 volts) is removed; and,

3. KENERGY hereby grants to DODGE HILL its consent for DODGE HILL to construct a permanent three-phase transmission feeder (69 KV) from the existing permanent KU metering point located within KU's electric service area to DODGE HILL's air shaft at 815 Pond Ford Road, Sturgis, Kentucky 42459, subject to the following terms and conditions:

(a) The purpose of the DODGE HILL permanent three-phase transmission feeder (69 KV) is to provide the necessary electrical power to the DODGE HILL equipment and facilities at the air shaft and to the underground equipment and facilities to the Dodge Hill No. 1 Mine underground workings;

(b) The permanent three-phase transmission feeder (69 KV) shall be approximately 8,060 feet in length;

(c) The permanent three-phase transmission feeder (69 KV) shall be removed when the Dodge Hill No. 1 Mine is closed; and,

(d) DODGE HILL shall give written notice to KENERGY when the permanent three-phase transmission feeder (69 KV) is removed.

4. DODGE HILL hereby agrees to indemnify and save KENERGY harmless from all claims and damages incurred by KENERGY as a result of DODGE HILL's installation,

construction, operation, maintenance and removal of the temporary three-phase distribution feeder (12,470 volts) and the permanent three-phase transmission feeder (69 KV).

5. The parties agree to file the Agreement with the Kentucky Public Service Commission seeking its approval. This Agreement shall become effective only after approval by the Kentucky Public Service Commission.

6. This Agreement may be executed in one or more identical counterparts which may be combined into one or more identical documents, but all of which together shall constitute one and the same instrument, each of which shall be deemed an original.

7. This Agreement shall constitute the entire agreement of the parties hereto with respect to the aforementioned subject matter and shall supersede and replace any prior agreement, contract, or understanding, whether written or oral, express or implied pertaining to said subject matter.

8. This Agreement shall be construed in accordance with the substantive laws of the Commonwealth of Kentucky.

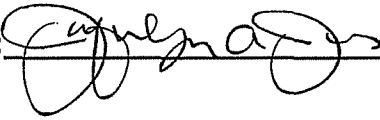
9. Upon approval by the Kentucky Public Service Commission, this Agreement shall inure to the benefit of and shall be of full and binding effect upon the parties hereto, their successors and assigns.

[remainder of page intentionally left blank]

WITNESS, the execution of:

DODGE HILL:

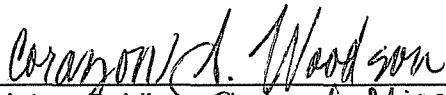
DODGE HILL MINING COMPANY, LLC

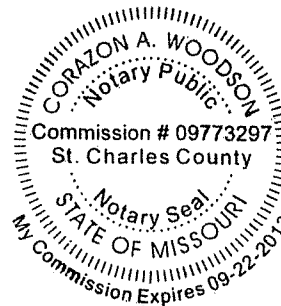
By: 

Title: Vice President

STATE OF MISSOURI)
) SS:
COUNTY OF ST. LOUIS)

The foregoing Agreement was SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Jacquelyn A. Jones as Vice President of Dodge Hill Mining Company, LLC, a Delaware limited liability company, personally known to me to be the person whose name is subscribed above and having represented to me that he has full power and authority to so execute on its behalf as its free act and deed in due form of law for the purposes stated herein, on this the 28th day of December, 2010.


Notary Public, State of Missouri
My commission expires: 09-22-2013



WITNESS, the execution of:

APPROVED:

KENTUCKY PUBLIC SERVICE COMMISSION

By: _____

Title: _____

Date: _____

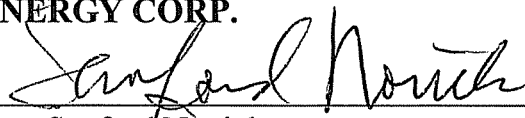
ADDENDUM

THIS ADDENDUM TO TEMPORARY DISTRIBUTION AND PERMANENT TRANSMISSION FEEDER AGREEMENT dated the 30th day of December, 2010, is made and entered into by and between Kenergy Corp. and Dodge Hill Mining Company, LLC;

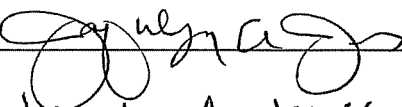
Attached hereto as "Addendum Exhibit 1" is a drawing depicting the temporary 3-phase distribution feeder and temporary KU metering point, the permanent 3-phase transmission feeder and existing permanent KU metering point, the proposed location of the airshaft, and the pertinent part of the certified territory boundary between Kenergy and KU.

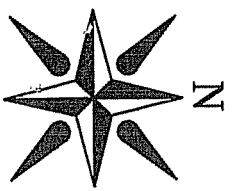
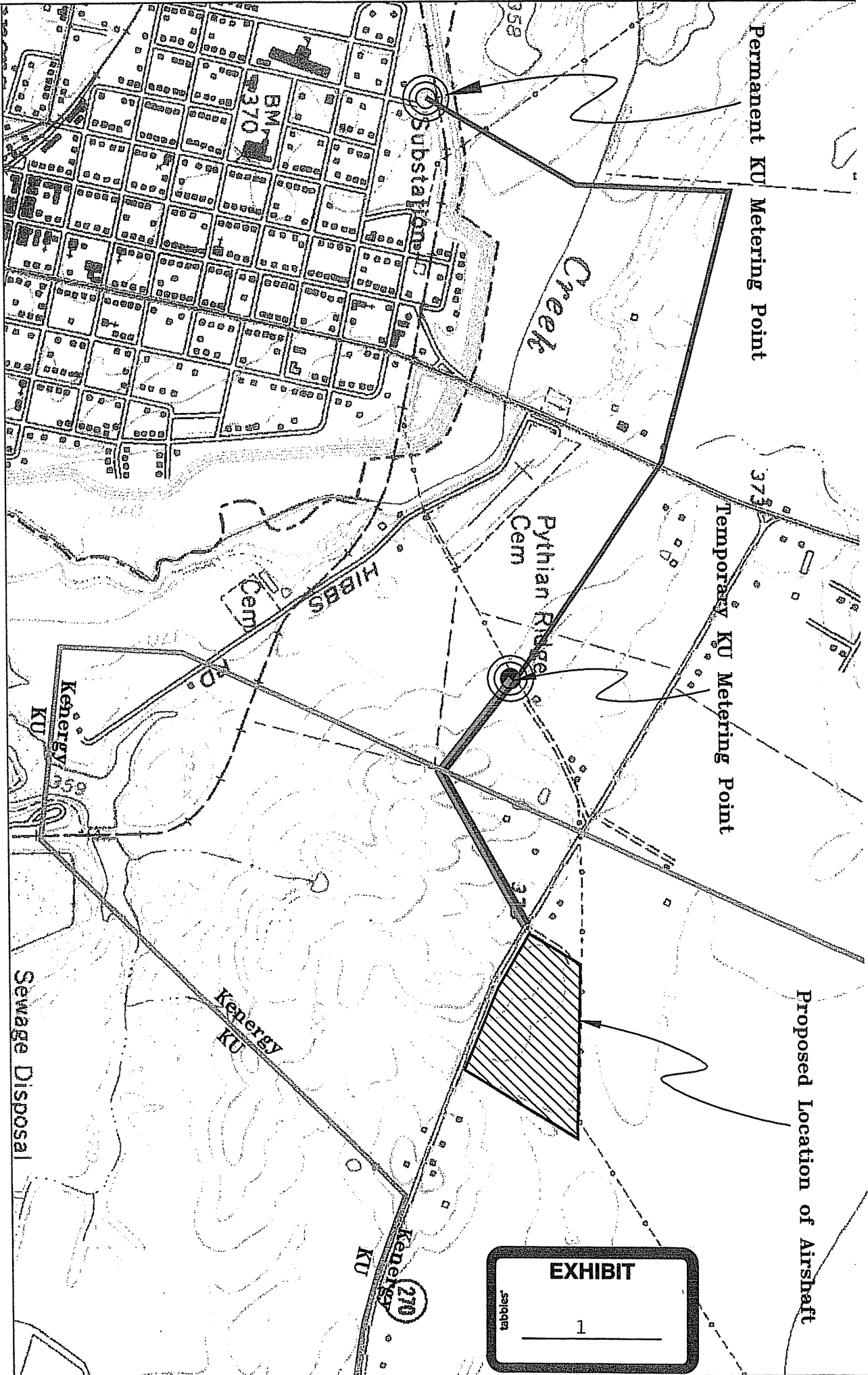
IN TESTIMONY WHEREOF witness the hands of the parties hereto as of the day and date first above written.

KENERGY CORP.



By 
Sanford Novick
President and CEO

DODGE HILL MINING COMPANY, LLC

By 
Jacquelyn A. Jones
(name)
Vice President
(title)



Addendum Exhibit 1

-  = Permanent 3-Phase Transmission Feeder
-  = Temporary 3-Phase Distribution Feeder

Dodge Hill Mining Co. LLC
 Union Co., KY.

EXHIBIT

1

AGREEMENT

THIS AGREEMENT made and entered into this the ____ day of January, 2011, by and between **KENERGY CORP.**, Post Office Box 18, Henderson, Kentucky 42419, (“Kenergy”) and **KENTUCKY UTILITIES COMPANY**, _____ (“KU”);

WHEREAS Dodge Hill Mining Company, LLC (“Dodge Hill”) has requested Kenergy to approve Dodge Hill’s receiving temporary and permanent power from KU at an airshaft site located in Kenergy’s certified territory in Union County and Kenergy has determined that its facilities and those of its wholesale power provider Big Rivers Electric Corporation are not well located for these services and has entered into written agreement with Dodge Hill approving the requested services, a copy of said written agreement being attached hereto and made a part hereof as “Exhibit A;” and

WHEREAS KU desires to provide the requested services to Dodge Hill and Kenergy and KU desire to enter into written agreement regarding this matter;

NOW, therefore, the premises considered and in consideration of the mutual promises and covenants of the parties hereto, **IT IS AGREED** as follows:

1. KU may provide temporary and permanent service to Dodge Hill in accordance with the terms of attached “Exhibit A.”

2. KU shall have no responsibility for removal of Dodge Hill's facilities as set forth in paragraphs 2.(c) and 3.(c) of "Exhibit A;"

3. The certified territory boundary between Kenergy and KU in the area affected by KU's service to Dodge Hill hereunder shall not be modified.

4. This agreement shall become effective when accepted or approved by the Kentucky Public Service Commission.

IN TESTIMONY WHEREOF witness the hands of the parties hereto this day and date first above written.

KENERGY CORP.

By _____
Sanford Novick
President and CEO

KENTUCKY UTILITIES COMPANY

By _____

(name)

(title)