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February 14, 2012

## PARTIES OF RECORD

Re: Case No. 2011-00184

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within seven days of receipt of this letter. If you have any questions, please contact Allyson Honaker at 502-564-3940, Extension 265, or by e-mail at [Allyson.Honaker@ky.gov](mailto:Allyson.Honaker@ky.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen  
Executive Director

AH/kar

Attachment

**INTRA-AGENCY MEMORANDUM**  
**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO:** Main Case File – Case No. 2011-00184  
Johnson County Gas Company, Inc. and Bud Rife,  
Individually, and as Sole Officer of the Utility –  
Alleged Failure to Comply with Commission Orders

**FROM:** Allyson Honaker, Team Leader

**DATE:** February 14, 2012

**SUBJECT:** February 6, 2012 Informal Conference

An Informal Conference (“IC”) was held in this case at the Commission’s offices on February 6, 2012. A list of those participating is shown in Attachment A to this memorandum. The IC had been requested by Commission Staff (“Staff”) for the purpose of discussing issues in this proceeding and how they are impacted by Johnson County Gas Company’s (“Johnson County”) bankruptcy.

The IC attendees discussed the Gas Cost Adjustment (“GCA”) filing currently before the Commission in Case No. 2011-00368, and that an Order in the case will be required by March 5, 2012, the end of the rate suspension period. Commission Staff acknowledged the receipt of all information required in Case No. 2011-00368, the lack of which was the major issue in this proceeding, and that the record in that case reflects no billings from NiSource for gas supply taken from the Columbia Gas Transmission (“TCO”) pool, and thus no payments were made by Johnson County for those volumes.

Staff questioned Mr. Rife concerning Johnson County’s current gas supply situation. Mr. Rife stated that he has secured a new transportation contract with NiSource and has paid the required deposit, and that he would provide an executed copy of the contract for the record in this proceeding. The contract was provided on February 9, 2011, and is attached to this memo as Attachment B. For future gas supply from NiSource provided via TCO, NiSource and Johnson County will exchange gas provided by Hall Stevens Hall, of which Mr. Rife is part owner. Mr. Rife believes he will be able to secure a flat rate contract for future gas supply arranged in this manner, which will benefit the customers through more stable pricing. EQT and Bradco will continue to provide portions of Johnson County’s system supply, and Mr. Rife is in the process of negotiating more favorable pricing with those suppliers.

Johnson County’s bankruptcy counsel, Mr. Bunch, provided information to Staff concerning the proposed bankruptcy plan, which is being reviewed by the creditors. He has received favorable responses from several of the creditors, including Johnson

County Fiscal Court and the Department of Local Government. It is Mr. Bunch's opinion that any pre-bankruptcy over-recoveries of gas costs which occurred through Johnson County's gas cost rates are not eligible for return to customers through the GCA mechanism, as they represent gas costs owed to NiSource, costs which are now the subject of Johnson County's bankruptcy. Any under/over-recoveries of gas cost occurring after the June 27, 2011 bankruptcy filing will be tracked through future GCA filings. Mr. Rife is in the process of ascertaining what the price of gas from all suppliers will be going forward, and how and when he will be billed for post-bankruptcy gas cost from NiSource. This information will be the basis of the Expected Gas Cost and Actual Adjustment filed in Johnson County's next GCA filing.

Mr. Bunch provided a handout, which is Attachment C to this memorandum, showing Johnson County's projected overhead expense budget for the 12 months ending December 31, 2012, which will be the basis for a rate case filing being prepared for Johnson County. Mr. Bunch agreed to provide the bankruptcy plan for the record in this proceeding, which he provided on February 8, 2012, and it is attached to this memo as Attachment D. He stated that one requirement of the plan is that Johnson County receive favorable rate treatment so that it can meet its debt service to creditors.

The conference was then adjourned.

Attachments

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHNSON COUNTY GAS COMPANY, INC. )  
AND BUD RIFE, INDIVIDUALLY AND AS SOLE ) CASE NO.  
OFFICER OF THE UTILITY ALLEGED FAILURE ) 2011-00184  
TO COMPLY WITH COMMISSION ORDERS )

February 6, 2012

Please sign in:

NAME

REPRESENTING

*Alyson Honaker*

*PSC - Legal*

*JEFF SHAW*

*PSC - FA*

*Leah Faulkner*

*PSC - FA*

*Dany / Newby*

*PSC - FA*

*Bernae Gackett*

*UCGC*

*Tom Bunch #*

*ATTORNEY FOR CK. 11 BCG*

*Tip Depp*

*Johnson Co. Gas (Dinsmore)*

*Bruce [Signature]*

*JOHNSON Co GAS*

Service Agreement No. 35261

Revision No. 0

### ITS SERVICE AGREEMENT

THIS AGREEMENT, made and entered into this 3 day of February 2012, by and between COLUMBIA GAS TRANSMISSION, LLC ("Transporter") and Johnson County Gas Company ("Shipper").

WITNESSETH: That in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Section 1. Service to be Rendered. Transporter shall perform and Shipper shall receive service in accordance with the provisions of the effective ITS Rate Schedule and applicable General Terms and Conditions of Transporter's FERC Gas Tariff, Fourth Revised Volume No. 1 ("Tariff"), on file with the Federal Energy Regulatory Commission (Commission), as the same may be amended or superseded in accordance with the rules and regulations of the Commission. The maximum obligation of Transporter to deliver gas hereunder to or for Shipper, the designation of the points of delivery at which Transporter shall deliver or cause gas to be delivered to or for Shipper, and the points of receipt at which Shipper shall deliver or cause gas to be delivered, are specified in Appendix A, as the same may be amended from time to time by agreement between Shipper and Transporter, or in accordance with the rules and regulations of the Commission.

Section 2. Term. Service under this Agreement shall commence as of February 3, 2012 and shall continue from month to month thereafter until terminated by either Transporter or Shipper upon thirty days prior notice. Pre-granted abandonment shall apply upon termination of this Agreement, subject to any right of first refusal Shipper may have under the Commission's regulations and Transporter's Tariff.

Section 3. Rates. Shipper shall pay Transporter the charges and furnish Retainage as described in the above-referenced Rate Schedule, unless otherwise agreed to by the parties in writing and specified as an amendment to this Service Agreement. Transporter may agree to discount its rate to Shipper below Transporter's maximum rate, but not less than Transporter's minimum rate. Such discounted rate may apply to: (a) specified quantities (contract demand or commodity quantities); (b) specified quantities above or below a certain level or all quantities if quantities exceed a certain level; (c) quantities during specified time periods; (d) quantities at specified points, locations, or other defined geographical areas; (e) that a specified discounted rate will apply in a specified relationship to the quantities actually transported (i.e., that the reservation charge will be adjusted in a specified relationship to quantities actually transported); and (f) production and/or reserves committed by the Shipper. In addition, the discount agreement may include a provision that if one rate component which was at or below the applicable maximum rate at the time the discount agreement was executed subsequently exceeds the applicable maximum rate due to a change in Transporter's maximum rate so that

such rate component must be adjusted downward to equal the new applicable maximum rate, then other rate components may be adjusted upward to achieve the agreed overall rate, so long as none of the resulting rate components exceed the maximum rate applicable to that rate component. Such changes to rate components shall be applied prospectively, commencing with the date a Commission order accepts revised tariff sections. However, nothing contained herein shall be construed to alter a refund obligation under applicable law for any period during which rates which had been charged under a discount agreement exceeded rates which ultimately are found to be just and reasonable.

Section 4. Notices. Notices to Transporter under this Agreement shall be addressed to it at 5151 San Felipe, Suite 2500, Houston, Texas 77056, Attention: Customer Services and notices to Shipper shall be addressed to it at  
Johnson County Gas Company  
P.O. Box 339  
Harold, KY 41635  
Attention: Bud Rife

, until changed by either party by written notice.

Section 5. Superseded Agreements. This Service Agreement supersedes and cancels, as of the effective date hereof, the following Service Agreements: N/A.

Johnson County Gas Company  
By Bud Rife

Title \_\_\_\_\_

Date February 3, 2012

COLUMBIA GAS TRANSMISSION, LLC  
By William Weber

Title Contracts Team Lead

Date February 3, 2012

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Appendix A to Service Agreement No. 35261  
Under Rate Schedule ITS  
between Columbia Gas Transmission, LLC ("Transporter")  
and Johnson County Gas Company ("Shipper")

Transportation Quantity

<u>Begin</u> <u>Date</u>	<u>End</u> <u>Date</u>	<u>Transportation</u> <u>Quantity Dth/day</u>
February 3, 2012	March 31, 2012	69

Service pursuant to this Appendix A, Revision No. 0 shall be effective from February 3, 2012 through March 31, 2012 and will cancel and supersede the previous Appendix A to this Service Agreement, Revision No. \_\_\_\_\_, dated \_\_\_\_\_. The Master List of Interconnects ("MLP") as defined in Section 1 of the General Terms and Conditions is incorporated herein by reference for purposes of listing valid interruptible receipt points and delivery points.

Johnson County Gas Company  
By Bud Rife

Title \_\_\_\_\_

Date February 3, 2012

COLUMBIA GAS TRANSMISSION, LLC  
By William Weber

Title Contracts Team Lead

Date February 3, 2012

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**EXHIBIT 2**

Johnson County Gas Company, Inc.  
Overhead Expense Budget for the Year Ending 12/31/2012

	January	February	March	April	May	June	July	August	September	October	November	December	Total
Telephone	\$498	\$498	\$498	\$498	\$498	\$498	\$498	\$498	\$498	\$498	\$498	\$498	\$5,976
Health Insurance	1,047	1,046	1,046	1,046	1,046	1,046	1,046	1,046	1,046	1,046	1,046	1,046	12,553
Office Rental	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	12,000
PSC Tax & Licenses - average over yr	245	245	245	245	245	245	245	245	245	245	245	245	2,940
Insurance - cost of GL policy	712	0	0	2,607	712	712	712	712	712	712	712	712	9,015
Bank Charges	26	26	26	26	26	26	26	26	26	26	26	26	312
Accounting Fees	275	275	275	275	275	275	275	275	275	275	275	275	3,300
Legal & Disbursing Agent Fees	300			300			300			300	0		1,200
US Trustee Fees	0	0	975	0	0	975	0	0	975	0	0	975	3,900
Repairs and Maintenance	1,928	1,928	1,928	1,928	1,928	1,928	1,928	1,928	1,928	1,928	1,928	1,928	23,136
Office Supplies and Postage	397	397	397	397	397	397	397	397	397	397	397	397	4,764
Equipment Rental - Trucks	928	928	928	928	928	928	928	928	928	928	928	928	11,136
Utilities	149	149	149	149	149	149	149	149	149	149	149	149	1,788
Bud Rife Management Fees	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	7,000	84,000
Property Tax - Johnson Co. Fiscal Ct.	0	0	0	0	0	0	0	0	0	0	0	5,797	5,797
Miscellaneous	50	50	50	50	50	50	50	50	50	50	50	50	600
<b>Total Budgeted Expenditures</b>	<b>\$14,555</b>	<b>\$13,542</b>	<b>\$14,517</b>	<b>\$16,449</b>	<b>\$14,254</b>	<b>\$15,229</b>	<b>\$14,554</b>	<b>\$14,254</b>	<b>\$15,229</b>	<b>\$14,554</b>	<b>\$14,254</b>	<b>\$21,026</b>	<b>\$182,417</b>

The 2012 budget above is based upon historical costs and assumptions as to future costs.

NOTE: Cost of natural gas is recovered separately from customers at actual cost, and therefore, not shown herein.

Based upon the assumption that the Debtor will sell 19,000 Mcf to its customers each year, the cost recovery required, before debt service to Creditors, is \$9.60 per Mcf. The "surcharge" described in Article 6.9 (b) of the Plan is approx. \$90,000.00 to Classes 1, 2-A and 2-B plus \$105,000 to Class 3 for a total of \$195,000.00 over 5 years. \$195,000 divided by 5 years = \$39,000/yr. Surcharge required to pay \$39,000/yr based upon 19,000 Mcf sold per year is \$2.05 per Mcf.

Debtor believes that an adjustment by the Kentucky PSC of the minimum monthly charge from 1 Mcf to 2 Mcf per customer per month will be sufficient to recover \$18,100 (\$.95 per Mcf). Then, that \$18,100 plus \$20,900 (a surcharge of \$1.10 per Mcf) will total \$39,000 per year or \$2.05 per Mcf based upon \$19,000 Mcf sold to customers per year.



**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE DIVISION**

IN RE:

CHAPTER 11

JOHNSON COUNTY GAS COMPANY, INC.

Case No. 11-70410

DEBTOR

**PLAN OF REORGANIZATION**

Comes the Debtor, **JOHNSON COUNTY GAS COMPANY, INC.**, ("Debtor") and proposes this Plan of Reorganization ("**Plan**") pursuant to Bankruptcy Code §1121(a).

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**ARTICLE 1**  
**Definitions**

Unless otherwise stated, all terms not defined herein shall have the meaning set forth in the Code and the Bankruptcy Rules. Where there is a conflict between the defined terms herein and any terms in the Code or the applicable Bankruptcy Rules, the definitions herein shall control; the rules of construction of same shall be governed by 11 U.S.C. §102. The following terms when used in the Plan shall have the meanings set forth in this Article:

1.1 "Administrative Expense Claim" shall mean any cost or expense of administration of the Case allowable under Code §503(b) and under the procedural terms set forth in Article 2 of this Plan, and entitled to priority under §507(a)(1) or §507(b) incurred after the Petition Date and prior to the Effective Date and shall include any actual necessary expenses of preserving or liquidating property in the Case and in the context of the Plan, including Professionals' fees and expenses, payable from the Distribution Proceeds.

1.2 "Allowed Claim" shall mean a Claim against the Debtor allowable under Code §502 to the extent that (a) such Claim shall have been listed by the Debtor in the Schedules as liquidated in amount, undisputed and not contingent; or (b) a Proof of Claim shall have been timely filed, deemed filed, or, with leave of Court or without objection by the Debtor or any Creditor, late-filed, and as to which either (i) a timely objection is not filed which (if granted) would affect the distribution to the Creditor asserting such Claim or (ii) such Proof of Claim is allowed by a Final Order; (c) such Claim is a Disputed Claim which has become an Allowed Claim in conformity with the provisions of Article 9 of this Plan; or (d) an Administrative Expense Claim allowed pursuant to the terms of this Plan. Where there is a Claim allowed by the terms of this Plan, the terms of this Plan shall govern for all purposes of allowance. The term Allowed, when followed by a reference to a claim of a certain kind, shall mean an Allowed Claim of that kind of Claim. The term "Allowed Secured Claim" shall mean a Secured Creditor holding an Allowed Claim.

1.3 "Assets" shall mean all the Debtor's (a) assets listed in the Schedules and (b) any asset not listed therein but later discovered to be owned by the Debtor.

1.4 "Bankruptcy Rules" shall mean the Federal Rules of Bankruptcy Procedure, as may be amended and as supplemented by any local bankruptcy rules adopted by the Court.

1.5 "Bar Date" shall mean the final date for filing a Proof of Claim as set forth in Section 8.1 of this Plan.

1.6 "Business Day" shall mean any day on which national banks are open to carry on their ordinary commercial banking business in the Commonwealth of Kentucky.

1.7 "Case" shall mean this Chapter 11 case, No. 11-70410, commenced under the provisions of the Code on June 27, 2011, in the Court under the Debtor's name as a Debtor-in-Possession.

1.8 "Claim" shall mean the same as "claim" as defined in Code §101(5), if such claim against the Debtor were in existence on or as of the Petition Date. The term Claim, when preceded by a reference to a Class of Claims, shall mean a Claim of that Class.

1.9 "Claimant" shall mean the holder of a Claim.

1.10 "Class" shall mean a category of Claims that are substantially similar to other Claims in such Class.

1.11 "Code" shall mean the United States Bankruptcy Code set forth in Title 11, United States Code, as amended.

1.12 "Commonwealth of Kentucky, Department for Local Government" shall mean that certain Secured Creditor who holds a Claim against the Debtor as shown by Proof of Claim No. 5 filed on August 8, 2011 in the amount of \$1,984,429.80; it shall have an Allowed Secured Claim to the extent of the value of its collateral, hereby fixed at \$65,000.00 in Class 2-B, and it shall have an Allowed Deficiency Claim of \$1,918,429.80 in Class 3.

1.13 "Confirmation" shall mean the entry of an Order by the Court approving or confirming this Plan.

1.14 "Confirmation Date" shall mean the date upon which an Order of Confirmation is entered by the Court confirming this Plan.

1.15 "Confirmation Order" or "Order of Confirmation" shall mean the Order entered by the Court confirming this Plan.

1.16 "Counsel" shall mean W. Thomas Bunch, W. Thomas Bunch II and other attorneys at Bunch & Brock, Lexington, Kentucky, appointed by the Court to represent the Debtor and Debtor-in-Possession and who will continue to represent the Debtor after Confirmation of the Plan.

1.17 "Court" and "Court Order" shall mean the United States Bankruptcy Court for the Eastern District of Kentucky, Pikeville Division, including the United States Bankruptcy Judge presiding in this case or such other court having jurisdiction over this Case. When "Court Order" or "Order" is used herein, they shall mean an order issued by the Court and entered in the Court's record.

1.18 "Creditor" shall mean the holder of a Claim. The term Creditor, when preceding a reference to a Class of Claims, shall mean a Creditor in its capacity as a holder of a Claim of that Class.

1.19 "Debtor" shall mean Johnson County Gas Company, Inc.

1.20 "Deficiency Claim" shall mean the unsecured portion of a Secured Claim as determined by Code §506(a), which Deficiency Claim shall become a Class 3 Unsecured Claim.

1.21 "Disbursing Agent" shall mean W. Thomas Bunch II, Counsel for the Debtor, or another member of his law firm of Bunch & Brock, but if none of them are able or willing to act as such or are removed by the Court, such person as appointed by the Court.

1.22 "Disclosure Statement" shall mean that certain document styled "Disclosure Statement to Accompany Debtor's Plan of Reorganization," required to be filed by the Debtor by Code §1125, upon which the Impaired Classes of Creditors will rely in determining their vote for or against this Plan.

1.23 "Distribution Proceeds" shall mean (a) the Surplus Income; (b) \$75,000 of the Equity Contribution; (c) Tax Refunds, if any; and (d) the Prosecutable Claims Proceeds, if any.

1.24 "Disputed Claim" shall mean a Claim, or a portion of a Claim, which is not an Allowed Claim on the Effective Date or thereafter.

1.25 "Effective Date" shall mean the date fifteenth (15) day after the date of the entry of an Order of Confirmation by the Court; [I] provided, however, that (a) if the fifteenth (15th) day following the Confirmation Date falls on a day that is not a Business Day or a Saturday or Sunday, then the Effective Date shall be the second Business Day thereafter, and (b) if any act required to be performed on the Effective Date, or any condition required to exist on the Effective Date, cannot be performed or made to exist on the fifteenth (15th) day after the Confirmation Date due to the existence of a Court order staying or otherwise precluding execution of the Plan or any part thereof, then the Effective Date shall be the fifteenth (15th) day after the later of the date on which the order staying or otherwise precluding execution of the Plan or any part thereof has been nullified, vacated or otherwise modified, or the date on which the appeal and any further appeals have been resolved and the time for any further appeal has expired; and [II] further provided, however, that the Kentucky PSC has approved the Debtor's "Rate Case" to increase the revenues of the Debtor by an amount to sufficiently to provide for the repayment terms described in this Plan; and [III] further provided, however, that the Equity Interstholder has paid the Equity Contribution to the Debtor.

1.26 "Entity" shall mean a Person.

1.27 "Equity Contribution" shall mean the cash contribution by the Equity Interstholder of \$100,000.00 made in conformity with the terms of this Plan.

1.28 "Equity Interest" shall mean that certain 100% ownership of Bud Rife in the shares of the stock of the Debtor which has been valued for purposes of the Plan at \$10,000.00.

1.29 "Equity Interestholder" shall mean Bud Rife.

1.30 "Final Order" shall mean an order of the Court that has been declared final and appealable by the Court.

1.31 "Grace Period(s)" shall mean a period of ninety (90) days after each quarterly payment becomes due and payable to the Disbursing Agent for the Debtor to defer up to but no more than four (4) quarterly payments of Surplus Income or any part thereof, which deferral or deferrals, shall not be forgiven or remitted, but shall accrue and be made up after the lapse of the Term by adding one or more, but not to exceed, four (4) extra quarterly payments during which the deferred Surplus Income payments(s) or the unpaid portions thereof shall be paid to the Disbursing Agent. The Debtor has the right and option to replenish, replace or satisfy any 'used' or 'exercised' Grace Periods with excess income earned from the operation of the business by depositing such payment to the Disbursing Agent.

1.32 "Impaired Class" shall mean a Class of Claims which is impaired within the meaning of Code §1124.

1.33 "Johnson County Fiscal Court" shall mean that certain Secured Tax Creditor who is owed certain real property *ad valorem* taxes for prior tax years as shown by Proof of Claim No. 3 filed on July 8, 2011 in the amount of \$90,983.04 plus statutory interest; it shall hold an Allowed Secured Claim in the amount shown by said Proof of Claim in Class 2-A.

1.34 "Kentucky PSC" shall mean that certain Kentucky Public Service Commission having regulatory jurisdiction over the Debtor.

1.35 "Officer" shall mean Bud Rife.

1.36 "Person" shall include an individual, corporation, limited liability company, partnership, joint venture, trust, estate, unincorporated organization or a governmental unit or any agency or political subdivision thereof.

1.37 "Petition" shall mean the Debtor's petition, schedules and other required filings which have been filed in the Court's Record under Chapter 11 of the Code and any amendments or modifications thereto.

1.38 "Petition Date" shall mean the date and time of the filing of the Petition initiating this Case on June 27, 2011.



1.39 “Plan” shall mean this Chapter 11 plan proposed by the Debtor either in its present form or as it may be altered, amended, or modified.

1.40 “Post-Confirmation” shall mean an act or event that occurs, will occur, or occurred on or after the Confirmation Date.

1.41 “Post-Petition” shall mean an act or event that occurs, will occur, or occurred on or after the Petition Date.

1.42 “Pre-Petition” shall mean an act or event that occurred before the Petition Date.

1.43 “Priority Claims” shall mean those Claims allowable by Code §§ 507(a) and 503(b).

1.44 “Professionals” shall mean all attorneys, accountants, appraisers, examiners, consultants and other professional persons properly retained by the Debtor, whose appointments were approved and authorized by the Court and who performed professional services for or on behalf of the Debtor from the Petition Date through the Effective Date and whose services and expenses are subject to allowance by the Court under Code §330. The Debtor’s Professionals include the Debtor’s Counsel and Dinsmore & Shohl, LLP, and the Debtor’s accountant, Darrell Madden at Darrell Madden, CPA, PSC.

1.45 “Proof of Claim” shall mean Official Form 10 as is used in the Court as evidence of a Claim due a Creditor, properly filled-out, executed with supporting documentation, and filed with the Court on or before the deadlines fixed by Article 8 of this Plan.

1.46 “Pro Rata” shall mean proportionately so that the ratio of the amount of the distribution or payment made on account of an Allowed Claim to the amount of distribution or payment made on account of all Allowed Claims of the Class or category in which the particular Allowed Claim is included, is the same as the ratio of the amount of such Allowed Claim to the total amount of all Allowed Claims in such Class or category.

1.47 “Prosecutable Claims” shall mean all present and future rights, claims, remedies, defenses, setoffs, recoupments, interests, suits, actions, and proceedings belonging to or held by the Debtor and its estate against any Person, whether arising before or after the Petition Date, including but not limited to (a) the preference or fraudulent conveyance claims or other rights to recover money or property pursuant to Code §§ 542, 543, 544, 545, 547, 548, 549, 550, 551 or 553; or (b) any and all other claims, causes of action, avoiding powers or remedies arising under the Code or any other state or federal law, rule or regulation, including those potential claims described in Section 6.6.

1.48 “Prosecutable Claims Proceeds” shall mean the proceeds from the collection of the Prosecutable Claims and which proceeds shall become Distribution Proceeds.

1.49 "Rate Case" shall mean that certain application for an increase of customer rates before the Kentucky PSC.

1.50 "Rejection Claim" shall mean a Claim resulting from the rejection of an "executory contract" or "unexpired lease" under Code §365, which rejection is provided for in this Plan, and which Rejection Claim shall become a Class 3 Unsecured Claim.

1.51 "Reorganized Debtor" shall mean the new entity which shall succeed the Debtor and which shall exist upon the entry of the Confirmation Order and which shall perform the Post-Confirmation duties as required by the Plan.

1.52 "Schedules" shall mean the Schedules of Assets and Liabilities, Statements of Affairs, Statements of Executory Contracts and Unexpired Leases (Docket No. 1), and all amendments thereto, filed by the Debtor in this Case.

1.53 "Secured Claim" shall mean the Claim of any Creditor who holds a validly perfected lien superior to the Code § 544 rights and status of the Debtor and which Secured Claim has value in the estate's interest in the property of the Debtor.

1.54 "Secured Creditor" shall mean a Creditor holding a Secured Claim.

1.55 "Surplus Income" shall mean the amount of net money determined quarterly by deducting from the Debtor's gross revenue (a) all current operating expenses incurred in the ordinary course of business, including, but not limited to, the cost of natural gas, U.S. Trustee's fees, *ad valorem* taxes, insurance, Professional's fees, and any Unclassified Claims, and (b) a cash reserve of \$15,000.00, which net amount as so determined shall become a part of the Distribution Proceeds available for distribution to the Creditors.

1.56 "Tax Claims" shall mean those Claims owed to the Tax Creditors.

1.57 "Tax Creditors" shall mean the holders of a Claim due to a governmental unit for taxes as defined in Code §523(a)(1).

1.58 "Tax Refunds" shall mean tax refunds received by Debtor for a tax year within the Term, if any, but in computing the Tax Refunds for each tax year the Debtor may offset any Federal tax liability against any state refund or vice versa as circumstances dictate.

1.59 "Term" shall mean that period of time that this Plan shall remain in full force and effect, fixed at 60 months beginning on a day that is the thirtieth day after the Effective Date, plus any applicable Grace Periods.

1.60 "Unsecured Claim" shall mean a Claim against the Debtor, which Claim is not secured by any collateral and which Claim is not entitled to any priority treatment under the

Code. Unsecured Claims shall include, but are not limited to the Allowed Rejection Claims and Allowed Deficiency Claims, but does not include any Subordinated Claims.

1.61 "Unsecured Creditor" shall mean a Creditor holding an Unsecured Claim.

1.62 "Unclassified Claims" shall mean those Claims described in Article 2 of this Plan.

1.63 "Working Capital" shall mean \$25,000 of the Equity Contribution to be held by the Debtor and used for continued business operations on a month-to-month basis.

## **ARTICLE 2**

### **Treatment of Unclassified Claims**

2.1 Allowed Administrative Expense Claims. Except to the extent the Disbursing Agent and the holder of an Allowed Administrative Expense Claim agree to a different treatment or except to the extent that the terms of this Plan provide otherwise, the Disbursing Agent shall pay (a) to each holder of an Allowed Administrative Claim an amount equal to its Allowed Administrative Expense Claim on a date which is no later than fifteen (15) days after the Effective Date of the Plan; and (b) the claimant of an Administrative Claim on a date which is no later than fifteen (15) days after the Effective Date of the Plan and after the date on which such Administrative Expense Claim becomes an Allowed Administrative Expense Claim by the entry of a Final Order.

2.2 U.S. Trustee Fees. The fees payable to the U.S. Trustee shall be paid by the Debtor on its quarterly disbursements as and when they become due pursuant to 28 U.S.C. §1930, and this obligation to pay such fees shall continue until the Case is either converted, dismissed, or closed, whichever event occurs first.

2.3 Requests for Allowance of Administrative Expense Claims. Except as set forth herein to the contrary, each Person, including each Professional, shall file an application for an allowance of an Administrative Expense Claim in conformity with the following Subsections:

2.3.1 Counsel. Counsel and other Professionals shall file an application for the allowance of fees and expenses on or before thirty (30) days following the Confirmation Date to obtain an allowance thereof. Such allowance, as determined by the Court, shall be paid from the pre-paid retainers held in escrow by such professionals or on a month-to-month basis out of operating revenue.

2.3.2 Other Administrative Expense Claimants. All other Administrative Expense Claimants not mentioned in Subsection 2.3.1 shall file an application for the allowance of an Administrative Expense Claim on or before thirty (30) days following the Confirmation Date to obtain an allowance thereof. Such allowance shall be paid by the Disbursing Agent from the Debtor's Distribution Proceeds in

accordance with Section 2.1 above. If such application is not timely filed such claim shall stand as disallowed and be forever barred from being filed. The Reorganized Debtor or any Creditor may object to any application and shall obtain a hearing date from the Court to determine such objection.

2.4 Post-Confirmation Kentucky PSC Reports. In connection with this Plan and all instruments issued in connection therewith, the Reorganized Debtor shall comply with all applicable administrative rules promulgated by the Kentucky PSC, including, but not limited to, the requirement to file quarterly and annual reports with said PSC.

2.5 Post-Confirmation Operating Expenses. In connection with this Plan and all instruments issued in connection therewith, the Reorganized Debtor shall pay all Operating Expenses in the ordinary course of its business as said expenses become due and payable.

### **ARTICLE 3** **Classification of Claims and Interests**

The Allowed Claims and the interests shall be classified as follows:

3.1 Class 1 (Small Unsecured Creditors) shall consist of the Allowed Unsecured Claims of the Creditors who are owed as of the Petition Date less than \$2,000 and any creditor in Class 3 who elects to be treated as a Small Unsecured Creditor to be paid a maximum of \$2,000.

3.2 Class 2 (Secured Claims) shall consist of three sub-classes for the Allowed Secured Claims of the Secured Creditors, as follows:

Class 2-A: Secured Claim of Johnson County Fiscal Court. Class 2-A shall consist of the Allowed Secured Claim of the Johnson County Fiscal Court secured by a tax lien upon all of the Debtor's 32 miles of gas pipeline in Johnson County. Class 2-A is senior to Class 2-B below.

Class 2-B: Secured Claim of the Commonwealth of Kentucky, Department for Local Government. Class 2-B shall consist of the Allowed Secured Claim of the Commonwealth of Kentucky, Department for Local Government secured by a first mortgage and fixture filing upon all of the Debtor's 32 miles of gas pipeline in Johnson County. Class 2-B is junior to the tax liens of Class 2-A.

Class 2-C: Secured Claim of Western Commerce Bank. Class 2-C shall consist of the Allowed Secured Claim of Western Commerce Bank of Carlsbad, NM which bank finances the Debtor's insurance premium for the general liability policy.

3.3 Class 3 (Unsecured Claims) shall consist of the holders of Allowed Unsecured Claims, except Class 3 shall not include the Allowed Unsecured Claims of Class 1.

3.4 Class 4 (Equity Interestholder) shall consist of the interests of the Equity Interestholder.

#### ARTICLE 4

##### Identification of Impaired Classes and Voting Classes

4.1 Impairment: Classes Entitled and Not Entitled to Vote. Class 2-C is not an Impaired Class and is not entitled to vote for or against acceptance of the Plan. Class 4 is not an Impaired Class and is not entitled to vote for or against acceptance of this Plan, but as the proponent of the Plan, shall conclusively be deemed to have voted for the Plan. Classes 1, 2-A, 2-B, and 3 are impaired and will be entitled to vote for or against the Plan.

4.2 Controversies. In the event of any controversy concerning the classification of any Claim or whether any Class of Claims is impaired under this Plan, the Court shall, after notice and hearing, determine such controversy.

#### ARTICLE 5

##### Treatment of Classes of Claims and Commitment of Debtor's Surplus Income

5.1 Distribution Proceeds. Pursuant to the time limitations set forth in Section 8.2 and 8.3, infra, the Distribution Proceeds shall be distributed to the Creditors in the order of the following priority:

5.1.1 Treatment of Class 1 – Small Unsecured Creditors. The Allowed Claims of Small Unsecured Creditors of no more than \$2,000 or any Creditor who desires to be paid a maximum of \$2,000 within thirty (30) days after the Effective Date may elect to be treated as a Class 1 Creditor. Any such Creditor in this Class shall have its Allowed Claim of less than \$2,000 paid in full or shall have its Allowed Claim in excess of \$2,000 paid to the maximum of \$2,000 if it elected to be treated in this Class.

5.1.2 Treatment of Class 2 – Secured Claims. The Allowed Claims of the Secured Creditors shall be paid, as follows:

Class 2-A Johnson County Fiscal Court: After payment in full of the Class 1 Creditors, the Class 2-A Creditor shall be paid by a lump-sum distribution of \$75,000 within thirty (30) days after the Effective Date of the Plan, with the unpaid balance plus statutory interest to be paid from the Surplus Income until this Creditor is paid in full. Class 2-A shall retain its lien until its Secured Claim

is paid in full, and shall thereafter execute and file a release of its lien(s) in the Johnson County Clerk's Office.

Class 2-B Commonwealth of Kentucky, Department for Local Government: After payment in full of Class 1 and Class 2-A Creditors, the Class 2-B Creditor shall be paid from the Surplus Income to the extent of its Allowed Secured Claim. The Class 2-B Creditor shall retain its mortgage and lien upon the Debtor's assets until the Allowed Secured Claim is paid in full, and shall thereafter execute and file a release of all liens in the Johnson County Clerk's Office. The unpaid balance of the Class 2-B Claim shall be treated as a Deficiency Claim in Class 3 (unless Class 2-B elects to be treated as a Class 1 Claimant).

Class 2-C Western Commerce Bank: Class 2-C shall be paid in the ordinary course of business Post-Confirmation. Class 2-C is not impaired and will not receive a Distribution from the Surplus Income. Class 2-C shall retain its statutory security interest in the unearned insurance premium paid to Century Surety Company on behalf of the Debtor.

5.1.3 Treatment of Class 3 - Unsecured Creditors' Claims. After the payment of Classes 1 and 2 above, the Class 3 Unsecured Creditors shall be paid *Pro Rata* in amounts not to exceed their Allowed Claims until all such Claim are paid in full or until the Term ends, whichever event occurs first. Any Creditor in this Class may make an election on its Ballot, voting in favor of the Plan, to be treated as a Creditor in Class 1 and receive the maximum distribution in that Class, provided, however, that the election once made, shall be irrevocable, and provided that the election can only be made on the Ballot at the time of the voting process for or against the Plan. All Unsecured Creditors holding claims in excess of \$2,000 shall have their total claims' amounts counted as Class 3 Claimants for voting purposes only.

5.1.4 Treatment of Class 4 – Equity Interestholder. The Equity Interestholder shall retain his Equity Interest after Confirmation of this Plan and his new stock after the Effective Date.

5.2 Submission of Distribution Proceeds to Jurisdiction of the Court. The Debtor hereby submits the Distribution Proceeds to the jurisdiction of this Court for the Term for payment of the Allowed Claims according to the terms and priorities set forth in this Plan.

5.3 Limitation on Dividends. During the Term of the Plan, the Debtor shall not authorize or distribute any cash dividends to the Equity Interestholder.

**ARTICLE 6**  
**Means for Execution of the Plan**

6.1 Debtor's Payments to Disbursing Agent and Counsel. The following provisions shall apply to the Disbursing Agent and Counsel, as appropriate:

6.1.1 Appointment of Disbursing Agent. In the Confirmation Order, W. Thomas Bunch II shall be appointed the Disbursing Agent and the Court shall fix a bond for the Disbursing Agent and his successors in conformity with Code §322(a) and the Disbursing Agent and his successors shall maintain said bond at all times until final distribution of all funds that come or are to come into his hands pursuant to this Plan. The Court may, from time to time, increase or reduce the Disbursing Agent's bond whenever needed; the Debtor shall pay the cost of said bond.

6.1.2 Duties of the Disbursing Agent. Within fifteen (15) days after the condition described in Article 1.25 [2] is met, the Equity Interests holder shall pay and deliver the Equity Contribution to the Disbursing Agent; and beginning ninety (90) days after the Effective Date of the Plan and quarterly thereafter, the Debtor shall pay and deliver the Surplus Income to the Disbursing Agent; and all Tax Refunds and Prosecutable Claims Proceeds shall be turned over to the Disbursing Agent within ten (10) days of the receipt thereof. The Disbursing Agent shall file a notice in the Court's record to identify the Effective Date of the Plan. All funds coming into the possession of the Disbursing Agent shall be maintained by him in a bank authorized by the U.S. Trustee as an acceptable debtor-in-possession depository or in investments made in conformity with Code § 345, or his currently established IOLTA escrow account. The Disbursing Agent shall hold and disburse same to the Entities mentioned in this Plan and to the Creditors in accordance with the priorities set forth in Articles 2, 3, and 5 and in accordance with the terms of this Plan. No other duties shall be imposed upon the Disbursing Agent that are not specifically identified herein unless the Disbursing Agent specifically agrees to same in writing.

6.1.3 Monitoring of Disbursements. The U.S. Trustee may monitor and direct the collection, accounting, treatment, and distributions made by the Disbursing Agent and payments to any professional employed by him. This monitoring shall be subject to the following:

6.1.3.1 Availability of Records. The Disbursing Agent shall make available his books, records, office, and personnel to the U.S. Trustee or any Creditor at any reasonable time, but so as not to interfere with the Disbursing Agent's business, upon at least a 48-hour fax or e-mail notice during the regular business workday.

6.1.3.2 Payment of Compensation. The Disbursing Agent shall be paid \$300 per hour and reimbursed for all reasonable expenses incurred. He shall be paid his monthly billing invoices for his services

rendered as Disbursing Agent from the Distribution Proceeds in accordance with the terms set forth in Article 2 of this Plan.

6.1.3.3 Creditors' Option to Remove Disbursing Agent. At any time during the Term, any Creditor shall have the right to move the Court to remove the Disbursing Agent, but the Court shall remove the Disbursing Agent only for good cause. Any successor thereof shall be appointed by the Court subject to the bonding requirements in Section 6.1.2 prior to taking possession of the funds for which the Disbursing Agent is responsible.

6.1.3.4 Authority of Disbursing Agent. Except as otherwise limited herein, the Disbursing Agent shall have authority to (a) receive and hold all Cash from the Distribution Proceeds, (b) collect, account for, and make distributions provided for herein, (c) act in any way that is in conformity with or in furtherance of the terms of this Plan, (d) object to and litigate objections to any Claims or claim which is asserted against the Debtor as a result of actions following the Petition Date, (e) negotiate and settle any Claim or claim dispute, (f) to prepare the quarterly reports, and (g) perform such other duties as approved by this Plan or the Court.

6.1.3.5 Duties of Counsel. Except as otherwise limited herein, Counsel shall have authority on behalf of the Reorganized Debtor to (a) perform the legal services required by the work outlined in Subsection 6.1.3.4, (b) perform the legal duties for the Reorganized Debtor as required by the Code, this Plan, and the Court, (c) appear in Court and argue any matter on behalf of the Reorganized Debtor as is authorized, permitted, or envisioned by the terms of this Plan, (d) to file the quarterly reports with the Court, and (e) perform such other duties as assigned to him by the Reorganized Debtor or the Disbursing Agent.

6.1.3.6 Final Distribution. Upon the distribution of all funds proposed by this Plan to be distributed, the Counsel shall file with the Court a final report of distribution at which time the Reorganized Debtor shall be released from the jurisdiction of the Court. After the filing of the final report, the Court shall authorize the cancellation of the Disbursing Agent's bond and discharge him from all further duties. Or, if the Case is already closed, then a Notice may be filed in the Record by Counsel indicating that all funds have been distributed as provided for in the Plan, and the bonding company, upon receipt of such Notice, shall be authorized to cancel or terminate the Disbursing Agent's bond without a Court order.

6.1.3.7 Liability of Counsel and Disbursing Agent. Counsel and the Disbursing Agent shall not be held personally liable, directly or



indirectly, for any decision, action, inaction, activity or inactivity arising from the exercise of their duties as Counsel or Disbursing Agent, except for fraud, gross negligence or gross mismanagement.

6.1.3.8 Resignation of Disbursing Agent or Counsel. If the Disbursing Agent or Counsel resigns or dies or is unable to perform his duties as such due to illness or disability, the Court shall appoint a successor disbursing agent who shall be subject to the provisions of this Plan.

6.2 Provisions for Receipt of Monies. The Creditors will be paid their Allowed Claims, or a *Pro Rata* amount thereof, from the following sources:

6.2.1 Equity Contribution. In conformity with Article 6.10, *infra*, the Equity Interestholder shall pay over the Equity Contribution to the Disbursing Agent, which monies shall be used in conformity with the terms of this Plan.

6.2.2 Prosecutable Claims Proceeds. Notwithstanding anything to the contrary herein, the Reorganized Debtor and/or its Professionals shall, upon receipt of any Prosecutable Claims Proceeds, pay over such proceeds to the Disbursing Agent. Such monies shall be paid and distributed only to the Unclassified Classes and then to the Class 1 and 3 Unsecured Creditors.

6.2.3 Tax Refunds. The Reorganized Debtor shall be required to pay over to the Disbursing Agent any Tax Refunds received during the Term of the Plan, except any refunds received for tax year 2011. As required by this Plan, the Reorganized Debtor shall turn over to the Disbursing Agent copies of all state and federal income tax returns during the Plan and from which tax returns the Disbursing Agent will determine the Tax Refunds, if any. Any Federal tax liability may be used to offset any state refund or vice versa as circumstances dictate. Such monies shall be paid and distributed only to the Unclassified Claims and then to the Class 1 and 3 Unsecured Creditors.

6.2.4 Distribution. The Disbursing Agent shall disburse such monies received by him in conformity with the terms of this Plan.

6.3 Quarterly Reports and U.S. Trustee's Fees. The Debtor's obligation of filing monthly financial reports with the U.S. Trustee shall pass to and become the obligation of the Reorganized Debtor and such obligation shall continue following Confirmation until the obligation to pay the U.S. Trustee's fees required to be paid pursuant to 28 U.S.C. §1930(a)(6) ends; provided, however, that (a) such reports by the Disbursing Agent shall be mailed with any Distributions to Creditors and (b) such reports shall be filed quarterly instead of monthly. The Disbursing Agent shall prepare, sign, and file all Post-Confirmation reports and shall pay the U.S. Trustee's fees out of the Distribution Proceeds as Unclassified Claims. Copies of such

reports shall be served on the U.S. Trustee, Counsel and on any Creditor requesting continued service of same. No assessment of U.S. Trustee's fees shall be made against the Disbursing Agent, Counsel, or any professionals in their individual capacity.

6.4 Closing of Case. On or after the longer of (a) the fifteenth day after the entry of the Order allowing the Professionals their final fees, or (b) thirty days after the entry of the Order of Confirmation, the Debtor may move the Court to close this Case. After the closing of the Case, such closing shall (a) not alter, amend, revoke, or supersede the terms of the confirmed Plan, (b) not affect any rights of the Debtor, the Reorganized Debtor, Unclassified Claimants, Creditors or any other Person treated under the Plan, (c) continue to cause the terms of the confirmed Plan to remain binding on all Persons, (d) cause all Orders of the Court to remain in full force and effect, (e) permit the entry of the Discharge without re-opening the Case; and (f) cause the Court to retain all jurisdiction set forth herein in Section 7.3; and eliminate the Debtor's obligation to pay U.S. Trustee's fees.

6.5 Implementation of Continuing Stay as to Creditors. **On the Effective Date, every Creditor shall be precluded and permanently stayed from asserting against the Reorganized Debtor, including its Officer, agent, employee, member and shareholder, any Claim that arose before the Confirmation Date and the automatic stay under Code §362 shall be extended to the end of the Term or the date of the entry of the Discharge, whichever is later in time.**

6.6 Preservation of Prosecutable Claims by the Debtor. Pursuant to and in accordance with Code §§ 105(a), 1123(b)(3), and 1141(b) and except as provided herein, upon the entry of the Confirmation Order, all Prosecutable Claims shall be, and hereby are reserved, retained, and vested in the Reorganized Debtor. All Prosecutable Claims shall survive and continue Post-Confirmation, free and clear of all liens, claims, interests, encumbrances, defenses of *res judicata*, waiver, laches and estoppel, for investigation, prosecution, enforcement, settlement abandonment, adjustment, or collection for the benefit of the holders of Allowed Claims.

6.6.1 Notice to Prosecutable Targets. Without limiting the generality of the foregoing subparagraph, all Creditors and other parties in interest are hereby expressly advised and notified that the Reorganized Debtor shall have the right to investigate, prosecute, enforce, settle, adjust, collect, or otherwise dispose of the Prosecutable Claims. **ALL CREDITORS, PERSONS, ENTITIES, AND OTHER PARTIES WHO RECEIVED DIRECTLY OR INDIRECTLY, PAYMENTS, OFFSETS, RECOUPMENTS OR TRANSFERS OF PROPERTY FROM THE REORGANIZED DEBTOR WITHIN THE ONE (1) YEAR PERIOD PRECEDING THE PETITION DATE, OR WITHIN SUCH LONGER PERIOD OF TIME AS MAY APPLY UNDER APPLICABLE LAW INCLUDING, WITHOUT LIMITATION, PERSONS INCLUDED IN THE "LIST OF PROSECUTABLE CLAIMS TARGETS," WHICH INCLUDES A LIST OF PAYMENTS MADE WITHIN 90 DAYS PRIOR TO THE PETITION DATE ATTACHED AS EXHIBIT 1 TO THE**

**DISCLOSURE STATEMENT (AND INCORPORATED HEREIN BY THIS REFERENCE THE SAME AS IF SET FORTH AT LENGTH HEREIN), ARE HEREBY NOTIFIED THAT THEY MAY BE SUBJECT TO SUIT TO RECOVER ANY PREFERENCES, FRAUDULENT TRANSFERS, OR OTHER AVOIDABLE TRANSFERS AND TO PURSUE ANY PROSECUTABLE CLAIMS. The inclusion of a Person in, or the omission of a Person from, Exhibit 1 to the Disclosure Statement does not mean that a decision has been made to assert, or not to assert, a Prosecutable Claim against such Person. At this time, no determination has been made to pursue any particular Prosecutable Claim.**

6.6.2 Reservation of Prosecutable Claims. The Reorganized Debtor specifically reserves the Prosecutable Claims and, by setting forth notice to each currently known potential target of such Prosecutable Claim, expressly reserves such rights to survive beyond Confirmation, the finality of Confirmation, and all other legal effects of such Confirmation, provided, however, this reservation shall not mean and shall not be construed to mean that the exclusion of any Person from Exhibit 1 frees, releases, or exonerates any Person from a Prosecutable Claim by way of any defenses, including but limited to the defenses set forth in Subsections 6.6.3 and 6.6.4, and the Reorganized Debtor shall have the right to investigate, pursue, prosecute and collect any unknown, but later discovered, Prosecutable Claims against any Person.

6.6.3 Notice in Confirmation Order. The Court shall include in the Confirmation Order appropriate provisions incorporating the terms set forth in Subsections 6.6, 6.6.1, and 6.6.2, including but not by way of limitation, the survival of the Prosecutable Claims from the defenses of *res judicata*, waiver, laches, and estoppel as to the Prosecutable Claims and any other unknown but later discovered Claim or Claims after Confirmation and the approval of a grant of derivative jurisdiction for the Reorganized Debtor and its Counsel to prosecute the Prosecutable Claims.

6.6.4 Prosecution and Temporary Disallowance. The Reorganized Debtor and its Counsel shall prosecute the Prosecutable Claims. In accordance with Code § 502(d), the Reorganized Debtor shall seek an Order from the Court disallowing any Claim of a Creditor who has a preference claim asserted against such Creditor unless said Creditor has paid to the Reorganized Debtor the amount adjudged by the Court as a preference liability.

6.6.5 Discretion to Pursue or Settle and Immunity of Parties. The Reorganized Debtor, subject to the prior approval of Disbursing Agent, shall have discretion to pursue or not to pursue, to settle or not to settle, or to try or not to try, and/or to appeal or not to appeal the Prosecutable Claims as it determines without any further approval of the Court thereof. Neither the Reorganized

Debtor, its attorneys, nor the Disbursing Agent shall have any liability for the outcome of its decisions.

6.6.6 Payment Over to Disbursing Agent. All collections by the Reorganized Debtor shall be paid over to and held by the Disbursing Agent in his escrow account as Distribution Proceeds.

6.7 Provisions Relating to Default. Upon and after the Effective Date, the following provisions shall be applicable to the Reorganized Debtor:

6.7.1 Default of Plan. Notwithstanding any provision hereof, this Plan shall go into "default" upon the occurrence of any one or more of the following events if the Reorganized Debtor: (a) fails to turnover to the Disbursing Agent all Distribution Proceeds in a timely manner; (b) fails to substantially comply with any of the Chapter 11 provisions applicable to it after Confirmation either by the Code or by this Plan; or (c) fails to file any required tax return by the due date of such return. The U.S. Trustee or any creditor may file a written notification of default to the Reorganized Debtor providing a minimum fourteen (14) day opportunity to cure the default; if the Reorganized Debtor has not cured the default by the end of such cure period, then either the U.S. Trustee or the creditor, as appropriate, may move the Court to declare that the Reorganized Debtor is in default of the Plan. Upon a determination of default by the Court (same not having been cured), the remedies for same shall be the sale of the Reorganized Debtor's asset pursuant to 11 U.S.C. Section 363 all as described in Article 6.7.2 below.

6.7.2 Provisions for Sale of Reorganized Debtor's Assets. If there is a default notice filed in Court by a Creditor and no stay thereof is issued by the Court within ten days of the filing of such notice, then the procedures set forth herein shall apply:

6.7.2.1 Motion for Sale Procedures Order. Counsel shall file a motion for the entry of a sales procedures order pursuant to Code §363.

6.7.2.2 Sale of Debtor's Assets. Pursuant to the entry of and compliance with the sale procedure order, Counsel shall cause the sale of the Debtor's Assets as a going concern to the highest and best bidder, subject to the Court's approval after a sale approval hearing.

6.7.2.3 Carveouts for Counsel. Notwithstanding the distribution and priorities mentioned in the preceding subsection, the Court shall determine and allow attorneys' fees to be charged against the sale proceeds of the sales to be paid as attorneys' fees to Counsel for their legal services in the Case.

6.8 Discharge. After the Debtor has made all the payments of Surplus Income to the Disbursing Agent, and the Disbursing Agent has filed his final report of all distribution, the Debtor shall stand discharged of all Claims treated by this Plan even if not paid in full and the Court shall enter an Order of Discharge and such discharge language shall be included in any confirmation order. All the provisions relating to a discharge, as set forth in Code §727(b) shall be applicable to the Debtor. Upon the entry of the Order of Discharge or the filing of a final report of all timely distributions by the Disbursing Agent, the Debtor shall be deemed discharged of any and all Claims not paid during the Term; provided, however, that the Reorganized Debtor shall not receive an Order of Discharge unless Classes 1, 2-A & 2-B have been paid in full and Class 3 has been paid an amount no less than what would have been paid if this case had been a Chapter 7 liquidation case. For purposes of the foregoing, the Chapter 7 liquidation amount is hereby fixed at \$10,000.00.

6.9 Debtor's Request to Kentucky PSC for Surcharge upon Customers. The Debtor shall commence a Rate Case before the Kentucky PSC for approval of an adjustment of its current rates to provide for (a) the recovery of its overhead/operating costs as provided in this Plan, including, but not limited to, all leases and executory contracts assumed by the Debtor in Article 10.1 below, and (b) a "surcharge" to pay [i] the Class 1, 2-A and 2-B Secured Creditors in full and [ii] the Class 3 Unsecured Creditors no less than \$21,000.00 per year during the five year Term of the Plan (a total of \$105,000.00). The Debtor shall propose (a) an adjustment of the minimum monthly charge from 1 Mcf to 2 Mcf per customer per month and (b) a surcharge of \$1.10 per Mcf upon all natural gas consumed by the Debtor's customers in the Rate Case. The Effective Date of the Plan shall not occur until the Rate Case has been decided by the Kentucky PSC in the Debtor's favor.

6.10 Equity Contribution by Equity Interestholder. The Equity Interestholder shall contribute the Equity Contribution to the Debtor no later than fifteen (15) days after the entry of a final order by the Kentucky PSC approving the adjustments to the Debtor's rates as set forth in Article 6.9 above. The Debtor shall retain \$25,000.00 for an initial cash infusion for Working Capital and shall transfer the sum of \$75,000.00 to the Disbursing Agent for distribution to the Creditors in accordance with this Plan. Upon receipt of the Equity Contribution by the Debtor, the Debtor shall cancel all outstanding shares of the Debtor's stock (i.e., stock certificates) that were issued by the Debtor prior to the Petition Date, and shall forthwith issue new shares of common stock in the Reorganized Debtor to the Equity Interestholder. Thereafter, the Equity Interest shall be held by the Equity Interestholder free and clear of all liens, claim and encumbrances.

6.11 Exculpation for Post-Petition Events and Limitation of Liability: Officers of the Debtors, and all Professionals shall not have or incur any liability to, or be subject to any right of action by, the Debtor, or any holder of a Claim or Interest, or any other party in interest or any of their respective agents, shareholders, employees, representatives, financial advisors, attorneys or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, (a) any act taken or omitted to be taken on or after the Petition Date, (b) the Disclosure Statement, the Plan, and the documents necessary to effectuate the Plan, (c)

the solicitation of acceptances and rejections of the Plan, (d) the Debtor's Bankruptcy Case, (e) the administration of the Plan, (f) the distribution of property under the Plan, (g) any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or the Bankruptcy Case, or (h) any sale pursuant to or after the Plan, and in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan, provided, however, that none of the foregoing shall apply to fraud, gross negligence or intentional or malicious acts.

## **ARTICLE 7**

### **General Provisions**

7.1 Modification of Plan. The Debtor may propose amendments to or modifications of this Plan under Code §1127 at any time prior to the entry of the Confirmation Order. After the Confirmation Date, the Reorganized Debtor may remedy any defects or omissions or reconcile any inconsistencies in this Plan or in the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of this Plan so long as the interests of the Creditors are not materially and adversely affected.

7.2 Effectuating Documents; Exemption from Certain Transfer Taxes. The Reorganized Debtor is hereby authorized to execute, deliver, file or record such documents, contracts, releases and other agreements, and take all such further action as may be necessary, to effectuate and further evidence the terms of this Plan. Pursuant to Code § 1146(a), the delivery of any instrument of transfer under, and furtherance of, or in connection with, the Plan, including but not limited to deeds, bills of sale, assignments, or other instruments of transfer, shall not be subject to any stamp tax, or similar transfer tax.

7.3 Retention of Jurisdiction. The following provisions shall upon Confirmation, be applicable to this Case and the Reorganized Debtor:

7.3.1 The Court shall retain all legally permissible jurisdictions, including that necessary to insure that the purpose and intent of this Plan are carried out, to hear and determine all Claims, to determine any matter treated in this Plan for which reference to retained jurisdiction is made, and to hear and determine all Prosecutable Claims.

7.3.2 The Court shall further retain jurisdiction Post-Confirmation for the purpose of resolving all disputes concerning the meaning and effect of any of the Court's Orders, including the Confirmation Order, the application or interpretation of any provision of this Plan, or the application or interpretation of any provision of the Sale Order.

7.3.3 The Court shall retain jurisdiction for the following additional specific purposes after the Confirmation Date: (a) to modify this Plan pursuant to the Code and the Bankruptcy Rules; (b) to assure performance by the Reorganized

Debtor of its obligations to make distributions under this Plan and any other obligations and duties; (c) to enforce and interpret the terms of this Plan; (d) to enter such orders, including injunctions, as are necessary to enforce the title, rights and powers of the Reorganized Debtor and the Disbursing Agent and to interpret such limitations, restrictions, terms, and conditions on such title, rights and powers as may be necessary; (e) to enter an order concluding, terminating and/or closing this Case; (f) to correct any defect, cure any omission, or reconcile any inconsistency in this Plan or the Confirmation Order as may be necessary to carry out the purposes and intent of this Plan; (g) to decide issues concerning federal, state and local tax reporting and payment which arise in connection with the Confirmation, execution or performance of this Plan; (h) to hear and determine all Prosecutable Claims; and (i) to determine and enter final orders in all adversary proceedings pending on the Confirmation Date or filed thereafter.

7.4 Distribution Pending Stay on Appeal. Any stay pending appeal shall apply only to amounts in controversy and distribution of amounts not in controversy shall continue in accordance with the terms of the Plan.

7.5 Extensions of Time. Notwithstanding any time limitations in this Plan, the Court may for good cause shown extend such time limitations.

7.6 Post-Confirmation Actions, Reports and Final Decree. After Confirmation of this Plan, the following events shall occur:

7.6.1 Reports of Distribution. The Disbursing Agent shall file with the Court quarterly reports of receipts and disbursements of the Distribution Proceeds, with a copy to Counsel, the U.S. Trustee and any Creditor who requests a copy of same.

7.6.2 Final Report. Upon completion of all distributions provided for herein, the Disbursing Agent shall file a report of final distribution with the Court, with service on Counsel, the U.S. Trustee and any Creditor who requests same.

7.6.3 Request for Post-Confirmation Notices and Filings. After Confirmation, no Creditor herein will be served any notices, motions, reports or other filings in the Court except as set forth in Section 7.6. Any Creditor or party in interest who desires service of any Post-Confirmation notice(s) required in this Plan shall file with the Court and serve upon Counsel a request for such notices.

7.7 Notices. After Confirmation, any notice, report, motion, or filing required to be given to the Reorganized Debtor, the Post-Confirmation Committee, if any, the Disbursing Agent, or a Creditor pursuant to this Plan, the Code or Bankruptcy Rules shall be in writing and, if sent by e-mail, shall be deemed to have been given when sent, but if mailed, shall be deemed

to have been given three (3) days after the date sent. If such notice is sent by mail it shall be sent by first-class mail, postage prepaid. All notices shall be sent as follows:

If to the Reorganized Debtor, Counsel, or Disbursing Agent, to:

Johnson County Gas Co., Inc.  
c/o Bud Rife, President  
PO Box 447  
Besty Layne, KY 41605-0447  
REORGANIZED DEBTOR

W. Thomas Bunch II, Esq.  
BUNCH & BROCK  
271 West Short Street, Suite 805  
Lexington, KY 40507-1217  
(859) 254-5522  
E-mail: tom@bunchlaw.com  
ATTORNEYS FOR THE DEBTOR  
AND DISBURSING AGENT

If to the U.S. Trustee, to:

Rachelle C. Dodson, Esq.  
OFFICE OF THE U.S. TRUSTEE  
100 East Vine Street, Suite 500  
Lexington, KY 40507  
(859) 233-2822  
(859) 233-2834 *fax*  
E-mail: rachelle.c.dodson@usdoj.gov

7.8 Reduction of Notice Periods. Notwithstanding Bankruptcy Rule 2002, the notice period applicable to service of any notice on the Reorganized Debtor, the Disbursing Agent, or a Creditor otherwise applicable pursuant to the provisions of the Code, the Bankruptcy Rules or this Plan, is reduced to a fourteen (14) day period, with the exception of any applicable notice period relating to modification of the Plan after Confirmation.

7.9 Transfer of Claims. Claims may be transferred but such transfer will be honored only if applicable Notice is given to the Reorganized Debtor and only in accordance with Bankruptcy Rule 3001. Pre-Confirmation transfers of Claims shall be recognized if the transfer was done in accordance with Bankruptcy Rule 3001.

7.10 Captions. Paragraph captions used herein are for convenience only and shall not affect the construction of this Plan.



7.11 Exhibits. All references to any Exhibit herein shall be construed as references to that numbered Exhibit to the Disclosure Statement and shall be considered incorporated herein by this reference, the same as if set forth at length herein.

7.12 Choice of Law. Except to the extent that the Code or other federal statutes or regulations are applicable, the rights and obligations arising under the Plan shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Kentucky. In the event of an inconsistency between the terms of this Plan and the laws of the Commonwealth of Kentucky, the terms of this Plan shall prevail.

7.13 Binding Effect. The rights and obligations of any Person named in, or referred to, or affected by this Plan shall be binding upon, and shall inure to the benefit of, the successors, heirs and assigns of such Person.

**ARTICLE 8**  
**Provisions Governing Allowances of Claims and Distributions**  
**From the Post-Confirmation Estate**

8.1 Proofs of Claim, Allowances and Disallowances, Bar Dates, and Time Limitations. The allowance of Claims for distribution purposes shall be as follows:

8.1.1 Claims Fixed by this Plan. Any Creditor who has a Claim allowed by the terms of this Plan shall not be required to file a Proof of Claim.

8.1.2 Claims Listed Correctly in the Schedules. Any Creditor whose Claim is listed in the Schedules as nondisputed, liquidated, and noncontingent and the amount listed is correct, shall not be required to file a Proof of Claim.

8.1.3 Contingent, Disputed, or Contested Claims and Claims of an Unknown Amount. Any Creditor whose Claim is listed in the Schedules as disputed, unliquidated, or contingent and any Claim which is for an unknown amount shall:

8.1.3.1 Proof of Claim Required. File a Proof of Claim on or before forty (40) days after the Confirmation Date or such Claim shall stand as disallowed and such Creditor shall be forever barred from so filing.

8.1.3.2 Time for Filing. Shall file a motion or adversary action with the Court on or before forty (40) days after the Confirmation Date to have their Claim liquidated or otherwise allowed. Upon the allowance of a contingent or unliquidated claim, it shall be entitled to distribution under the Plan consistent with the treatment of other Claims in the Class in which the contingent or unliquidated claim is ultimately allowed. Any

Creditor who fails to initiate action pursuant to Subsection 8.1.3 for the allowance of its Claim shall have its Claim disallowed and be forever barred from seeking any recovery from the Reorganized Debtor, the Estate and the Assets.

8.1.4 Bar Date for Filing Proofs of Claim. Any Creditor holding a nondisputed, liquidated, and/or noncontingent Claim who desire to file a Proof of Claim to obtain an Allowed Claim in an amount different from the listing in the Schedules, or who is not listed as a Creditor in the Schedules, shall file a Proof of Claim on or before forty (40) days after the Confirmation Date or be forever barred from so filing. Any Creditor who has already filed a Proof of Claim shall not be required to file a new Proof of Claim. Any creditor who has filed a proof of claim on or before forty (40) days after the Confirmation Date may not thereafter amend their Proof of Claim to a higher amount.

8.1.5 Bar Date for Filing Proof of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to this Plan. A Proof of Claim asserting a Rejection Claim shall be filed with the Court on or before the fortieth (40<sup>th</sup>) day after the Confirmation Date or be forever barred from assertion of any Rejection Claim against any payment from the Reorganized Debtor.

8.1.6 Distribution Based on Allowed Claims Only. No Creditor shall receive any distribution under this Plan unless such Person holds an Allowed Claim.

8.1.7 Late Claims. Except as otherwise expressly provided in this Plan, any Claim not timely allowed pursuant to the terms of this Plan shall not be an Allowed Claim.

8.1.8 Time for Objections to Claims. Any objection(s) to Claims shall be filed before the first distribution to Class 3 Unsecured Claims under this Plan has been made, or within one (1) year after the Effective Date, whichever is longer. No distribution under this Plan shall commence to Creditors in a Class until all objections to Claims in that Class have been resolved by either agreement or Court Order.

8.2 Unclassified Claims Payments. Prior to making any distributions to the Classes treated under the terms of this Plan, the Disbursing Agent shall first make distribution to the holders of Administrative Expense Claims in conformity with Sections 2.1 or 2.3 of this Plan, and reservations of funds for those Unclassified Claims in conformity with Section 2.2 and 2.4 of this Plan.

8.3 Dates for Distribution. The Disbursing Agent shall commence payments from the Distribution Proceeds in accordance with the terms of this Plan and shall commence payment to the Creditors in Class 1 on or before the day that is ninety (90) days after the Effective Date

("Initial Distribution Date"), and shall continue such payments quarterly thereafter until the end of the Term or until the end of the Term and any Grace Periods exercised by the Debtor ("Final Distribution Date"). The Disbursing Agent may extend the Initial Distribution Date for good cause by notice filed in the record. Such distribution shall be in the order of priority fixed by the terms of this Plan.

8.4 De Minimis Payments. In no event shall the Disbursing Agent be obligated to make a distribution if, in the discretion of the Disbursing Agent, there are insufficient funds available to make a cost-efficient distribution, taking into account the size of the distribution to be made and the number of recipients of such distribution. At the end of the Term and if the Disbursing Agent deems a distribution impractical, then such funds remaining shall, in the Disbursing Agent's discretion, either be paid into the Court and disposed of under Chapter 129 of Title 28 of the United States Code or be donated to a reputable charitable organization of the Disbursing Agent's choice. In no event shall the foregoing impair the right of the Disbursing Agent to use funds to satisfy the costs of administering or fully consummating this Plan as authorized in Section 8.2, supra.

8.5 Distributions of Cash. All payments to be made by the Disbursing Agent pursuant to this Plan shall be made by a check drawn on the Disbursing Agent's account maintained in accordance with this Plan.

8.6 Delivery of Distributions and Undeliverable Distributions. Distributions to the holder of an Allowed Claim shall be made at the address of such holder as set forth on the Schedules unless superseded by the address as set forth on the Proof of Claim filed by such holder or by a written notice to the Disbursing Agent providing actual knowledge to the Disbursing Agent of a change of address. If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the Disbursing Agent is notified in writing within six months of the distribution date of such holder's then current address, at which time all distributions shall be made to such holder, without interest. All Claims for undeliverable distributions shall be made within six months after the date such undeliverable distribution was initially made. If any Claim for an undeliverable distribution is not timely made as provided herein, such Claim shall be forever barred with prejudice. After such date, all unclaimed property shall be applied first to satisfy the costs of administering and fully consummating this Plan, then for distribution in accordance with this Plan, and the holder of any such Claim shall not be entitled to any other or further distribution under this Plan on account of such undeliverable distribution or such Claim.

8.7 Time Bar to Cash Payments and Disallowances. Checks issued by the Disbursing Agent in respect of Allowed Claims shall be void if not negotiated within six months after the date of issuance thereof. Requests for reissuance of any check shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check originally was issued, on or before the expiration of six months following the date of issuance of such check. After such date, all funds held on account of such void check shall be applied first to satisfy the costs of administering and fully consummating this Plan, then for distribution in accordance with this

Plan. The Claim of the holder of any such void check shall be disallowed and such holder shall not be entitled to any other or further distribution on account of such void check or such Claim.

8.8 Minimum Distributions. If a distribution to be made to a holder of an Allowed Claim on any distribution date, including the Final Distribution Date, would be \$10.00 or less, notwithstanding any contrary provision of this Plan, no distribution will be made to such holder.

8.9 Transactions on Business Days. If the Effective Date or any other date on which a transaction, event or act may occur or arise under this Plan shall occur on Saturday, Sunday or a day that is not a Business Day, the transaction, event or act contemplated by this Plan to occur on such day shall instead occur on the next day which is a Business Day.

## ARTICLE 9

### Procedures for Resolving and Treating Disputed Claims

9.1 Objections to Claims and Proofs of Claims. The Reorganized Debtor or any Creditor shall have the right to object to Claims and the allowances of such Claims, subject to the procedures and limitations set forth in this Plan, the Bankruptcy Rules, and the Code. Any objections to Claims shall be filed before the first distribution to Class 3 Unsecured Claims under this Plan has been made, or within one (1) year after the Effective Date, whichever is longer.

9.2 No Distribution Pending Determination of Allowability of Disputed Claims; Distributions to be Made on Undisputed Balances of Partially Disputed Claims. No Proceeds shall be distributed under this Plan on account of any Disputed Claim, unless and until such Claim becomes an Allowed Claim; provided, however, that, except as otherwise required by Section 502(d) of the Code, if a Claim is partially disputed, contingent or unliquidated but the balance of the Claim is undisputed, liquidated and not contingent (the "Undisputed Balance"), then distribution shall be made to the holder of the Claim on such Undisputed Balance and distribution shall be withheld on the part of the Claim that is disputed, unliquidated, or contingent unless and until such part becomes an Allowed Claim.

9.3 Reserve Accounts for Disputed Claims. On or prior to the Initial Distribution Date and each subsequent distribution, the Disbursing Agent shall reserve cash in an aggregate amount sufficient to pay each holder of a Disputed Claim (a) the amount of cash that such holder would have been entitled to receive under this Plan if such Claim had been an Allowed Claim on the Initial Distribution Date, or (b) such lesser amount as the Court may estimate or may otherwise order ("Disputed Claims Reserve").

9.4 Allowance and Payment of Disputed Claims. If, on or after the Effective Date, any Disputed Claim becomes an Allowed Claim, the Disbursing Agent shall, within 30 days after the date on which such Disputed Claim becomes an Allowed Claim or as soon thereafter as is practicable, distribute from the Disputed Claims Reserve to the holder of such Allowed Claim

the amount of distributions that such holder would have been entitled to receive under this Plan if such Claim had been an Allowed Claim on the Effective Date.

9.5 Release of Excess Funds from Disputed Claims Reserve. If at any time or from time to time after the Effective Date, there shall be cash in the Disputed Claims Reserve in an amount in excess of the amount which the Disbursing Agent is required at such time to reserve on account of Disputed Claims under this Plan or pursuant to any Order of the Court, such excess funds shall become available to the Disbursing Agent generally and shall be applied first to satisfy the costs of administration of the Plan and then for distribution in accordance with this Plan.

9.6 Setoffs. The Disbursing Agent may, upon obtaining an Order after opportunity notice and a hearing, setoff against or recoup from any Allowed Claim and the distributions to be made pursuant to this Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the claims, rights and causes of action of any nature (including Prosecutable Claims) that the Debtor may have against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff or assert a recoupment nor the allowance of any Claim shall constitute a waiver or release of such claims, rights and causes of action (including Prosecutable Claims) that the Debtor may possess against such holder.

## ARTICLE 10

### Treatment of Executory Contracts and Unexpired Leases

10.1 Leases and Executory Contracts. The Debtor hereby assumes and shall perform those certain leases and contracts, as follows: (a) the July 20, 2006 lease of a Chevy S-10 pickup truck with Bud Rife, (b) the Management/Service Contract for all services regarding the Debtor's business operations with Bud Rife, (c) the building lease dated September 10, 2003, and amended to provide for the rent of the new building at 497 Georges Road, Betsy Layne, Kentucky with Bud Rife, (d) the July 30, 2006 lease of a 1999 one-ton service truck with Bud Rife, and (e) the contract with Bud Rife Construction Company, Inc. to perform construction services for the Debtor. Except as otherwise provided in the Confirmation Order and except as specifically assumed herein, all other executory contracts and/or unexpired leases that existed Pre-Petition between the Debtor and any Person shall be deemed rejected as of the Effective Date of the Plan, and their resulting Claims shall be Rejection Claims and included as Unsecured Claims in Class 3.

Dated: December 21, 2011

**JOHNSON COUNTY GAS COMPANY, INC.**

BY: /s/ Bud Rife  
**Bud Rife, President and as  
Designated Spokesman for Debtor**

PREPARED BY:

**BUNCH & BROCK**

By: /s/ W. Thomas Bunch II  
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