COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF INTENT OF BEREA COLLEGE)	
TO FILE AND APPLICATION FOR THE)	Case No. 2004-00331
TRANSFER OF UTILITY ASSETS TO)	
THE CITY OF BEREA)	

JOINT APPLICANTS' RESPONSE TO ATTORNEY GENERAL'S INFORMATION REQUESTS

** ** ** ** ** ** **

The Joint Applicants, though counsel, submit the following responses to the Attorney General's Requests for Information:

REQUEST NO. 1 - In numeric paragraphs 17 and 18 of the Application, reference is made to the fact that the College will assign its rights in, to and under the KU Contract set out in Exhibit P by way of an assignment set out in Exhibit Q. Exhibit P contains what appears to be three separate documents governing its agreement with KU; the contract for electric service executed in 1976 between KU and College (together with the supplemental agreements); the Electric Rate Scheduled WPS-87 (M) dated October 1987, and the Rules, Regulations and Conditions Applicable to Wholesale for Retail Resale Electric Service which was issued October 23, 1986 to become effective February 24, 1987.

On the final page of the Contract executed in 1976 between KU and College, provision is made to allow the assignment of rights under the contract by College to a purchaser of its electric distribution system without the prior written consent of KU. Otherwise, the rights under the contract cannot be assigned without prior written permission from KU. On page 5 of 6 of the Rules, Regulations and Conditions Applicable to Wholesale for Retail Resale Electric Service, the assignment of the contract is precluded absent receipt of prior written consent of KU. No



exception for the event of an assignment attendant to a bona fide sale of the electric distribution system is made. The Assignment provided in Exhibit Q makes no reference to receipt of prior written consent of KU.

RESPONSE NO. 1 - The contract attached as Exhibit P to the Application was dated November 13, 1989. Apparently the first page of Exhibit P was improperly copied, and a correct copy of that page is attached as Item 1. A review of the third page of the November 13, 1989 agreement reflects that Kentucky Utilities and Berea College agreed that the contract was assignable without the consent of Kentucky Utilities if the assignee were a bona fide purchaser of the electric system as set forth in the agreement. Since the City qualifies as a bona fide purchaser under the terms of the agreement, no consent from Kentucky Utilities is required.

REQUEST NO. 1.A. - Please provide a copy of page 6 of the Rules, Regulations and Conditions Applicable to Wholesale for Retail Resale Electric Service. This page appears to have been inadvertently omitted.

RESPONSE NO. 1.A. - A copy of page 6 of the Rules, Regulations, Terms and Conditions Applicable to Wholesale for Retail Resale Electric Service is attached as Item 2.

REQUEST NO. 1.B. - Has the prior written consent of KU been obtained for the assignment of that contract? If not, will it be obtained? If not, why not?

RESPONSE NO 1.B. - The prior written consent of KU has not been obtained for the assignment of the November 13, 1989. For additional information, please see explanation set forth in Response No. 1.

VERIFICATION

We hereby verify that the information set forth above is true to the best of our knowledge

and belief.	
	BEREA COLLEGE
	By: E. Didu Karby
	By: E. Didu Kerby. Title: Vice Resident Business: Administration
	CITY OF BEREA By: Range Fine
	By: Randy Jane Title: City Administrator
STATE OF KENTUCKY	<i>U</i>
COUNTY OF MADISON	
The foregoing was acknowledged, s October, 2004, by <u>E. Diane Keeby</u> Berea College.	subscribed and sworn to before me this 4 day of as Vice President Business r Administration
My Commission expires:	Notary Public S
STATE OF KENTUCKY	
COUNTY OF MADISON	
The foregoing was acknowledged, s October, 2004, by Randy Stone, City of Berea.	subscribed and sworn to before me this 5th day of as <u>City Haministrator</u> , of the
My Commission expires: 4-210-	Cherry Chastean
	Notary Public

James H. Newberry, Jr.
Noelle M. Holladay
Wyatt, Tarrant & Combs, LLP
250 West Main Street, Suite 1600
Lexington, KY 40507
859.233.2012

and

Judge B. Wilson, II General Counsel Berea College CPO 2211 Berea, KY 40404 859.985.3131

ATTORNEYS FOR BEREA COLLEGE

James T. Gilbert, Esq. Coy, Gilbert & Gilbert 212 North Second Street Richmond, KY 40475

ATTORNEY FOR CITY OF BEREA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Joint Applicants' Response to Attorney General's Request for Information was served via regular mail, upon the following:

Anita Mitchell, Esq. Kentucky Public Service Commission 211 Sower Boulevard Frankfort, KY 40601

David Spenard, Esq. Elizabeth Blackford, Esq. Office of the Attorney General 1024 Capital Center Drive, Suite 200 Frankfort, KY 40601-8204 This the day of October, 2004.

James H. Newberry, Jr.

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ITEM 1

CONTRACT FOR ELECTRIC SERVICE

THIS CONTRACT F	OR ELECTRIC SERVICE,	made and enter	ed into this November 13
,	19 <u>89</u> , by and betw	een KENTUCKY U	TILITIES COMPANY (hereafter
called Company)	and BEREA COLLEGI		
BEREA	KENTUCKY	(hereaft	er called Customer),
Town	State		
y.	wı	TNESSETH:	
and continuing subject to all thereafter referrations, Terms and sell and deliver (Point of Delive requirements of system.	until this Contract terms and conditions red to and made part Conditions applicable to Customer at MULTICY), and Customer wielectricity for oper	is canceled stated herein, hereof and i le to the server PLE DELIVERY Political and ation of Custon	later effectiveness hereof, as hereafter provided, and in Company's Rate Schedule n Company's Rules, Regulate hereunder, Company will OINTS PER SUPPLEMENTAL AGREEMEN pay Company for, Customer's mer's electric distribution
of Customer's re-	quirements of electr tem, by either party	icity for opera	, or terminated as to part tion of Customer's electric an five years prior written
contract or of electricity must on which the sor supplier that it partial terminat continue to take of the Contract specified in the	termination as to contain a specificaturce of supply will will supply Custome ion hereunder is to service from Company by Customer, the rate Schedule applicing Rate Schedule	part of Custom ion of the new be available or on the date become effect after the effect ate for such eable at the ti	er of cancellation of the ner's said requirements of source of supply, the date and an affidavit from the the cancellation hereof or tive. If Customer should ective date of cancellation service shall be the rate me of Customer's notice or with the Federal Energy
current of a nom	_	9,000 volts	ase, 60 cycle, alternating at the Point of Delivery owatts.
All power ta	ken under this Contr	act will be bil	
or Transmission]	Service.		[Primary

ITEM 2

or the affected segment thereof, and retail customers of Customer will be treated alike; and Customer will cooperate fully in taking the same character of enforcement action as Company takes with respect to any such request or mandate.

ADJUSTMENTS

Nothing contained herein shall be construed as affecting in any way the right of Company, and Company shall at all times have the right, to unilaterally file with the Federal Energy Regulatory Commission, or other regulatory agency having jurisdiction, a change in rates, charges, classification or service, or any rule, regulation or contract relating thereto, under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder, or under other applicable statutes and regulations.

SUPERSEDE PREVIOUS RULES, REGULATIONS, TERMS AND CONDITIONS

These Rules, Regulations, Terms and Conditions supersede all Rules, Regulations, Terms and Conditions under which Company has previously supplied electric service at wholesale for retail resale.

Issue Date: October 23, 1986